

ELECTION
OF
GUARDIANS AND DISTRICT COUNCILS
UNDER
THE LOCAL GOVERNMENT ACT 1894

F. ROWLEY PARKER

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ELECTION

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ELECTION OF GUARDIANS

AND
DISTRICT COUNCILLORS

UNDER THE
LOCAL GOVERNMENT ACT, 1894,

*WITH THE RULES MADE THEREUNDER AND ALL
THE STATUTES REQUIRED DURING
THE ELECTION.*

BY
F. ROWLEY PARKER,

SOLICITOR AND PARLIAMENTARY AGENT;

*Author of "The Powers, Duties, and Liabilities of an Election Agent, and of a Returning
Officer at a Parliamentary Election in England and Wales" (2nd Edition);*

"The Election of County Councils" (2nd Edition);

&c., &c., &c.

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AND CHARING CROSS.

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TO
MY FATHER,
MY FIRST TUTOR IN THE LAW,
THIS BOOK
IS
AFFECTIONATELY INSCRIBED.

W. D. D. 1911. 11/28/52

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P R E F A C E

THIS is a companion and intermediate volume to my Election of County Councils, and my recently published Election of Parish Councils. It completes the series of election works which commenced with my Election Agent and Returning Officer.

The subject of this book is of extreme complexity, and that difficulties will discover themselves in giving practical effect to the Act and Rules, and in bringing the new authorities into existence, must be expected. Those who have been concerned in the election of guardians and urban authorities, and who are called upon to take part in the coming elections, have both to unlearn the old system and to learn the new ; and have thus more to learn than those concerned in the election of the new parish councillors, who start entirely afresh.

The experiment of taking the polls together, and thus of blending two totally distinct elections in the middle of their course and at one stage only, seems to me to be more likely to be attractive to the theorist than to any one practically concerned in the elections. Guardians and urban district councillors on the one hand, and rural district and parish councillors on the other hand, differ in every respect, except in this possibility of taking the polls together. The candidates will in most cases be different individuals, and be drawn from different classes of the community, their agents and assistants will differ, they differ also in their

qualification and nomination for election, the votes when given must, of course, be counted separately, and there being thus so little identity, it remains to be seen whether the blending of the two elections in the middle and at one stage only of their course, is really beneficial and desirable, or the reverse. No doubt it is right to save the elector both time and trouble, and no doubt, from his point of view, it is preferable to make one journey only to the polling station, and there to cast his votes for all his representatives at one and the same time—provided that he is not detained too long before or in the station, and provided there is no probability of his being called upon to vote over again, through the election becoming abortive—and when all have learnt how the machinery of the elections can be made to run smoothly, it may prove a success. But it is a bold innovation to introduce on the first election of four new elective bodies, with a new electorate, a new and intricate Act of Parliament, with four fasciculi of rules and forms, and with but little time to master the details of the whole.

The object of this book is to aid in diminishing these difficulties, and to offer such assistance as is in my power towards the smooth running of the new machinery. For this purpose I have endeavoured to bring together the various statutory provisions and rules bearing upon the branch of the subject under discussion, to cite every decision of the Courts which appears to illustrate or explain such provisions or rules, to weave the whole together in a methodical and connected form, and so as to make each branch complete in itself, and to save the reader the time and labour of hunting about from place to place to collect together the information he requires. I have also sought to point out the differences which exist between the three kinds of election dealt with in this book. Where no authority is quoted, I alone am responsible for the

opinion or conclusion expressed, and greater caution is therefore needful in acting on such passages than upon those that have authority to justify them.

The collection of irregularly marked ballot papers in this book is the same as that in the Election of Parish Councils ; it is, I believe, the most complete in existence, and my warmest thanks are due to those who have so kindly enabled me to make it so. Most of the originals have now been destroyed under the provisions of the Ballot Act, and these copies serve as illustrations of the judgments of the Courts, and without which such judgments cannot be so easily understood or so well appreciated. They also illustrate the singular ingenuity and perversity of man, and the numerous methods he has invented of marking his ballot paper in a manner or position other than the right one, and of disregarding the express provisions of the Ballot Act.

I have not found it possible wholly to dispense with the use of legal terms and phrases, but it has been my endeavour to express myself clearly and without ambiguity, and in language that may be comprehensible by the unprofessional reader as well as by the trained lawyer. And, so far as it goes, I trust that this book may prove a safe and useful guide to those who take part in the coming elections, whether as candidate, elector, returning officer, agent, assistant, or deputy.

F. R. P.

12 NEW COURT, CAREY STREET,
November, 1894.

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A. & E.	Adolphus & Ellis's (Queen's Bench) Reports, 1834-41.
Acc.	Accord (i.e. agrees).
App. Cas.	Law Reports, Appeal Cases, 1875-94.

B.

B. A.	Ballot Act, 1872 (35 & 36 Vict. c. 33).
B. & A.	Barnewall & Alderson's (King's Bench) Reports, 1818-22.
B. & Ad.	Barnewall & Adolphus's (King's Bench) Reports, 1830-34.
B. & Arn.	Barron & Arnold's Election Cases, 1843-46.
B. & Aust.	Barron & Austin's Election Cases, 1842.
B. & C.	Barnewall & Cresswell's (Queen's Bench) Reports, 1823-30.
B. & P.	Bosanquet & Puller's (Common Pleas) Reports, 1796-1804.
B. & P. N. R. ...	Bosanquet & Puller's New Reports (Common Pleas), 1804-7.
B. & S.	Best & Smith's (Queen's Bench) Reports, 1861-70.
Beav.	Beavan's (Rolls Court) Reports, 1838-65.
Bing.	Bingham's (Common Pleas) Reports, 1822-34.
Black Comm. ...	Blackstone's Commentaries on the Laws of England, 15th Edition, 1809.
Black. W.	Blackstone's William (King's Bench) Reports, 1746-79.
Burr.	Burrow's (King's Bench) Reports, 1756-72.

C.

C. B.	Common Bench Reports, or Manning, Grainger & Scott's Reports, 1843-57.
C. B. N.S.	Common Bench Reports, New Series, 1857-65.
C. & D.	Corbett & Daniell's Election Cases, 1819.
C. I. P. P. A. ...	Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51).
C. & Kir.	Carrington & Kirwan's (Nisi Prius) Reports, 1843-52.
C. O. R.	Crown Office Rules, 1886.
C. M. & R. . . .	Crompton, Meeson & Roscoe's (Exchequer) Reports.
C. & P.	Carrington & Payne's (Nisi Prius) Reports, 1823-41.
C. P. D.	Law Reports, Common Pleas Division, 1875-80.

C. & R.	Cockburn & Rowe's Election Cases, 1833.
Cab. & E.	Cababé & Ellis' Reports (Nisi Prius) 1882—85.
Camp.	Campbell's (Nisi Prius) Reports, 1807—16.
Car. & Marsh ...	Carrington & Marshman's (Nisi Prius) Reports, 1841—42.
Ch. D.	Law Reports, Chancery Division, 1875—91.
Ch. D. (1891, 2,	Law Reports, Chancery Division, 1891, 2, 3, 4.
3, 4)	
Chit.	Chitty (Queen's Bench) Reports, 1819—20.
Cl. & F.	Clark & Finelly's (House of Lords) Reports, 1831—46.
Cliff.	Clifford's Southwark Election Cases, 1796—7.
Co. Litt.	Coke upon Littleton, 17th Edition, 1817.
Cox C. C.	Cox's Cases on Criminal Law, 1843—1894.
Cp.	Compare with.
Crabb Syn.	Crabb's English Synonyms, New Edition, 1875.
Cunn.	Cunningham on Elections, 2nd Edition, 1880.

D.

Davidson's Ccn- veyancing	Davidson's Precedents and Forms in Conveyancing, 3rd Edition, 1873.
Day	Day's Election Cases, 1894.
Doug.	Douglas's Election Cases, 2nd Edition, 1775—76.
Dow	Dow's (House of Lords) Reports, 1812—18.
Dowl.	Dowling's Practice Reports (King's Bench), 1830—41.
Duties of County Councils	Parker's Duties of County Councils under the Local Government Act, 1894.

E.

E. & B.	Ellis & Blackburn's (Queen's Bench) Reports, 1851—58.
E. & E.	Ellis & Ellis's (Queen's Bench) Reports, 1858—61.
East	East's (King's Bench) Reports, 1801—14.
Election Agent...	Parker's Election Agent and Returning Officer, 2nd Edition, 1891.
Election of County Councils	Parker's Election of County Councils, 2nd Edition, 1892.
Election of Parish Councils	Parker's Election of Parish Councils, 1894.
Exch.	Exchequer Reports by Welsby, Hurlstone & Gordon, 1841—57.
Ex. D.	Law Reports, Exchequer Division, 1875—80.

F.

F. & F.	Foster & Finlayson's (Nisi Prius) Reports, 1835—38.
Falc. & F.	Falconer & Fitzherbert's Election Cases, 1856—67.
Fraser	Fraser's Election Cases, 1790—92.

G.

G. O.	Guardians (Outside London) Election Order, 1894.
Glan.	Glanville's Election Cases, 1263—24.
Gorst.	Gorst's Election Manual, New Edition, 1884.

H.

- H. & C..... Hurlstone & Coltman's (Exchequer) Reports, 1862—65.
H. L. C..... Clark's House of Lords Cases, 1847—66.
H. & N.... Hurlstone & Norman's (Exchequer) Reports, 1856—62.
Heyw. Co. Heywood on County Elections, 2nd Edition, 1812.
Howell's St. Tr. State Trials (by Cobbett & Howell), 1163—1820.

I.

- Inst. Coke's Institutes.
Ir. C. L. R. Irish Common Law Reports, 1850—66.
Ir. L. R. Irish Law Reports, 1838—50.
Ir. R. C. L. Irish Reports (Common Law), 1866—78.

J.

- J. P. Justice of the Peace, 1837—94.
Jur..... Jurist Reports, 1837—54.

K.

- K. & O..... Knapp & Ombler's Election Cases, 1834—35.
Keb. Keble's (King's Bench) Reports, 1661—79.
Kyd Kyd on Corporations, 1793.

L.

- L. G. A. Local Government Act, 1894 (56 & 57 Vict. c. 73).
L. G. A., 1888 ... Local Government Act, 1888 (51 & 52 Vict. c. 41).
L. J. C. P. Law Journal Reports, Common Pleas, 1831—75.
L. J. Q. B. Law Journal Reports, Queen's Bench, 1831—94.
L. M. & P. Lowndes, Maxwell & Pollock's (Bail Court) Reports,
1850—51.
L. R. C. P. Law Reports, Common Pleas, 1865—75.
L. R. Eq. Law Reports, Chancery & Bankruptcy, 1865—75.
L. R. Ex. Law Reports, Exchequer, 1865—75.
L. R. Ir. Law Reports, Ireland, 1879—93.
L. R. Q. B. Law Reports, Queen's Bench, 1865—75.
L. T. Law Times Reports, New Series, 1859—94.
Ld. Keny. Lord Kenyon's (King's Bench) Reports, 1819—25.
Ld. Raym. Lord Raymond's (King's Bench) Reports, 4th Edition, by
Bayley, 1694—1732.
Leigh & Le M.... Leigh & Le Marchant's Guide to Election Law, 4th Ed.,
1885.
Lev. Levinz's (Queen's Bench), Reports, 1660—96.
Lud. Luder's Election Cases, 1784—87.
Lutw..... Lutwyche's Registration Cases, 1843—53.

M.

- M. C. A. Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50).
 M. E. C. I. P. A. Municipal Elections (Corrupt and Illegal Practices) Act,
 1884 (47 & 48 Vict. c. 70).
 M. & G. Manning & Grainger's (Common Pleas) Reports, 1840—44.
 M. G. & S. Manning, Grainger, & Scott's (Common Pleas) Reports.
 1845—47.
 M. & S. Maule & Selwyn's (Queen's Bench) Reports, 1813—17.
 M. & W. Meeson & Welsby's (Exchequer) Reports, 1836—47.
 Male Male on Elections, 2nd Edition, 1830.
 Maxwell Maxwell on the Interpretations of Statutes, 2nd Edition,
 1883.
 Mod. Modern (King's Bench) Reports, 1669—1755.
 Moody C. C. ... Moody's Crown Cases (Exchequer Chamber), 1824—44.
 Moore Moore's (Privy Council) Appeals, 1836—62.

O.

- O'M. & H. O'Malley & Hardcastle's Reports of Election Petitions,
 1869—94.
 Orme Orme on Elections, 2nd Edition, 1812.

P.

- P. H. A. Public Health Act, 1875 (38 & 39 Vict. c. 55).
 P. & K. Perry & Knapp's Election Cases, 1833.
 P. O. Parish Councillors Election Order, 1894.
 P. R. & D. Power, Rodwell, and Dew's Election Cases, 1847—56.
 P. Wms. Peere Williams (Chancery) Reports, 1695—1735.
 Peck. Peckwell's Election Cases, 1802—6.
 Perkins Perkins' Profitable Book, 1657.
 Petersd. Abr. Petersdoff's Abridgements, 1861—70.
 Phillip's Dict. ... Phillip's English Dictionary, 4th Edition, 1678.
 Poph. Popham's (Queen's Bench) Reports, 1591—1627.
 Print. Min. Minutes of Evidence taken on the Trial of Election
 Petitions, and printed by order of the House of
 Commons.
 Pt. Part.

Q.

- Q. B. Queen's Bench Reports, 1841—52.
 Q. B. (1891, 2, Law Reports, Queen's Bench Division, 1891, 2, 3, 4,
 3, 4)
 Q. B. D. Law Reports, Queen's Bench Division, 1875—91.

R.

- R. Rule.
 R. O. Rural District Councillors Election Order, 1894.
 Rawlinson Rawlinson's Municipal Corporations, 5th Edition, 1884.

Roe	Roe on Elections, 2nd Edition, 1818.
Rog.	Rogers on Elections, 14th Edition, 1885.
Ruff.	Ruffhead's Edition of the Statutes at large.
Rules, 1883	General Rules under the M.C.A., 1882.
Russ. & R.	Russell and Ryan's Crown Cases, 1799—1824.

S.

S. C.	Same Case.
Sch.	Schedule.
Salk.	Salkeld's (King's Bench) Reports, 1689—1712.
Say.	Sayer's (King's Bench) Reports, 1751—56.
Scott	Scott's (Common Pleas) Reports, 1834—40.
Scott, N.S.	Scott's (Common Pleas) Reports, New Series, 1856—65.
Sim.	Simeon on Elections, 2nd Edition, 1795.
St. Tr. N.S.	State Trials, New Series (by Macdonnell), 1820—40.
Stra.	Strange's (Queen's Bench) Reports, 1716—47.

T.

T. R.	Term Reports by Durnford & East (King's Bench) 1785—1800.
Taunt.	Taunton's (Common Pleas) Reports, 1807—19.
Times L. R.	Times Law Reports, 1884—94.
Tit.	Title.

U.

U. O.	Urban District Councillor's Election Order, 1894.
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V.

Vin. Abr.	Viner's Abridgment, 1799.
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W.

W. & D.	Wolferstan & Dew's Election Cases, 1857—58.
W. N.	Weekly Notes, 1866—94.
W. R.	Weekly Reporter, 1852—94.
Wils.	Wilson's (King's Bench and Common Pleas) Reports. 1743—74.

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PART I.

THE AUTHORITY AND ITS MEMBERS.

CHAPTER I.

CHAP. I.

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CHAP. I.

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A.—BOARDS OF GUARDIANS.

ESTABLISHMENT OF
BOARDS OF
GUARDIANS.

Definitions.

Guardians are elected for parishes in urban districts only ; rural district councillors, who also act as guardians, being elected for parishes in rural districts (*see post*, p. 17). The expression "guardians," when used in the L.G.A., means guardians elected under the Poor Law Amendment Act, 1834 (4 & 5 Will. IV. c. 76), and the Acts amending the same, and includes guardians or other bodies of persons performing under any local Act the like functions to guardians under the Poor Law Amendment Act, 1834 (L.G.A. 1888, s. 100 ; L.G.A. s. 75, sub-s. 2). A "parish" means a place for which a separate poor rate is or can be made, or for which a

separate overseer is or can be appointed (52 & 53 Vict. c. 63, s. 5), and thus any place, whether called parish, extra-parochial place, or township, for which a separate poor rate is or can be made, or a separate overseer is or can be appointed, is a parish. If the parish is situate in more than one county, it shall, for the purposes of the G.O., be deemed to be wholly situate in the county which, according to the census of 1891, contains the larger part of its population (G.O. r. 30). An "urban district" (formerly called "urban sanitary district") is the district of an "urban district council" (formerly called an "urban sanitary authority"), and is of three kinds, viz. (1) municipal borough; (2) improvement act district, which is an area subject to the jurisdiction of commissioners, trustees, or other persons invested by a local Act, with powers of town government and rating, and having no part thereof situate within a borough or local government district; and (3) local government district, which is an area subject to the jurisdiction of a local board, and having no part thereof situate within a borough, and not coincident in area with a borough or improvement act district (P.H.A. ss. 6, 4; L.G.A. s. 21, sub. 1). Improvement Act district and local government district are now obsolete expressions and areas, both having now become urban districts (see L.G.A. s. 21, sub. 1). An "urban parish" in the G.O. means a parish which will be situated in one or more urban districts on the appointed day on which the urban district councillors first elected under the L.G.A. came into office (G.O. r. 36), *i.e.*, which will be so situated on the 31st of December, 1894 (U.O. r. 27).

Unions of parishes, governed by boards of guardians, Unions. have been formed by order of the Poor Law Commissioners (4 & 5 Will. IV. c. 70, s. 38), subsequently by order of the Poor Law Board (10 & 11 Vict. c. 109; 30 & 31 Vict. c. 106, s. 1), then by order of the Local Government Board (34 & 35 Vict. c. 70), by whose order they may still be formed.

A board of guardians may be elected for any single Single parish, and may act in like manner as a board of parishes. guardians for a union, if it has been so ordered by the Poor Law Commissioners (see 4 & 5 Will. IV. c. 76, s. 39), or by the Poor Law Board (10 & 11 Vict. c. 109; 30 & 31 Vict. c. 106, s. 1), or has been, or shall be, so ordered by the Local Government Board (34 & 35 Vict. c. 70).

CHAP. I.

Metropolitan
unions and
parishes.

The relief of the poor of every union or parish in the metropolis governed by a local Act shall, from and after a day to be stated in an order of the Poor Law Board (now the Local Government Board) in relation to each union or parish, be, notwithstanding anything in such local Act, administered by a board of guardians elected according to the poor law Acts, and in conformity with an order of the Poor Law Board (now the Local Government Board (30 & 31 Vict. c. 6, s. 73; 34 & 35 Vict. c. 70). Guardians so constituted, notwithstanding anything in any local Act, shall have the same powers and authorities, and shall be subject to the same orders, regulations, and restrictions as guardians elected under the poor law Acts (30 & 31 Vict. c. 6, s. 74).

Districts
under local
Acts.

(4.) Where under any local and personal Act guardians of a poor law union are elected for districts, whether called by that name or not, the provisions of the L.G.A. with respect to the election of guardians shall apply as if each of the districts were a parish (L.G.A. s. 60, sub. 4).

The expression "local and personal Act" includes a provisional order confirmed by an Act, and the Act confirming the order (*ib.* s. 75, sub. 2.)

PARISH
WARDS.

Division
by Local
Government
Board.

The Local Government Board may, by their order, divide any parish into wards for the election of guardians, and determine the number of guardians to be elected for every such ward, having due regard to the value of the rateable property therein; and each such ward shall for the purposes of such election be deemed to be a separate parish except so far as the said board may otherwise order (39 & 40 Vict. c. 61, s. 12).

By county
council.

For the purposes of fixing or altering the number of guardians to be elected for each parish within their county, the county council may, from time to time, exercise powers of dividing parishes into wards, similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Local Government Board (L.G.A. s. 60, sub. 1); provided that where the union is situate in more than one county, this power shall be exercised by a joint committee of the councils of the counties concerned, and any order thereunder, if objected to within six weeks by any of such councils, shall be of no effect until confirmed by the Local Government Board (*ib.* sub. 3).

If a parish is divided into wards for the election of

guardians, the rules of the G.O. shall apply to each of such wards as if it were a parish (G.O. r. 31, par. 1).

Any wards already formed, or hereafter to be formed, by the Local Government Board under the Public Health Act, 1872, or the Public Health Act, 1875, for the election of guardians of the poor, and the number of guardians to be elected for such wards respectively, may be altered from time to time by that board as they may think fit (45 & 46 Vict. c. 58 s. 8).

The Local Government Board may, by order, add any parish in a union, the population of which parish according to the last census shall not exceed three hundred, the annual rateable value whereof shall not exceed the average rateable value of the parishes in the same union according to the valuation lists in force for the time being, to some adjoining parish in the same union for the purpose of the election of guardians (31 & 32 Vict. c. 122, s. 6); and may thus save the necessity of the election of a separate guardian for a parish whose population or circumstances are insufficient to warrant such an election. It will be observed that the parishes thus added to each other must be "adjoining" parishes, and that the power is limited to adding one parish to another parish, and does not extend to combining three or more parishes. "Adjoining" parishes are parishes which are contiguous to one another, which lie next to one another so as to have nothing between them (Lathom's Webster's Dict.).

For the purpose of fixing or altering the number of guardians to be elected for each parish within their county, the county council may, from time to time, exercise powers of adding parishes to each other similar to those which by the Acts relating to the relief of the poor are, for the purpose of election of guardians, vested in the Local Government Board (L.G.A. s. 60, sub. 1); provided that where the union is situate in more than one county, this power shall be exercised by a joint committee of the councils of the counties concerned, and any order made thereunder, if objected to within six weeks by any of such councils, shall be of no effect until confirmed by the Local Government Board (*ib.* sub. 3).

If a parish is united with any other parish for the election of guardians, the rules of the G.O. shall, subject as therein mentioned, apply to such parishes as if such parishes formed the parish (G.O. r. 32, par. 1).

CHAP. I.

Alteration of wards.

United parishes.

By order of county council.

CHAP. I.
 ———
 CONSTITUTION, INCORPORATION, AND STYLE.
 ———

A board of guardians consists of a chairman, a vice-chairman if the guardians think fit, of guardians elected by the parochial electors, and of not more than two other persons elected by the board from outside their own body. All of these persons are members of the board (see L.G.A. s. 20, sub. 7).

Name. A board of guardians is a body corporate (5 & 6 Will. IV. c. 69, s. 7), and its name and style is "The Guardians of the Poor of the Union (or of the Parish of), in the County of " (*ib.*; 5 & 6 Vict. c. 57, s. 16).

Quorum. No business shall be transacted at any meeting of a board of guardians unless at least one third of the full number of members be present thereat, subject to this qualification that in no case shall a larger quorum than seven members be required (P.H.A. sch. I. part I. r. 2; L.G.A. s. 59, sub. 1; thus repealing 4 & 5 Will. IV. c. 76, s. 38, as to a quorum). The filling up of vacancies is "business" within the meaning of this rule, which cannot be transacted by a less number of members than a quorum (*Newhaven Local Board v. Newhaven School Board*, 30 Ch. D. 350).

CHAIRMAN.
 ———
 Election of chairman.

The board of guardians shall from time to time at their annual meeting elect a person to be chairman for one year at all meetings at which he is present (L.G.A. s. 59, sub. 1; P.H.A. sch. I. part I. r. 3), and the annual meeting shall be held as soon as may be convenient after the 15th of April in each year (*ib.* r. 11). The chairman may be elected from among the guardians (P.H.A. sch. I. part I. r. 3), or from outside the guardians (L.G.A. s. 20, sub. 7; s. 59, sub. 1), in the latter case he must be a person qualified to be a guardian of the union (as to which, see *post*, p. 31). A woman, whether married or single, is therefore eligible as chairman. If elected from outside the guardians, the chairman becomes an additional guardian and member of the board (*ib.* s. 20, sub. 7), and thus increases the number of the board by one.

The election of a chairman is obligatory on the board (see P.H.A., sch. I. pt. I. r. 3). The names of the guardians present, as well as of those voting on each question, shall be recorded, so as to show whether each vote given was for or against the question (*ib.* r. 6), and thus the election of chairman is not by ballot or secret voting. Every question at a meeting shall be decided by a majority of votes of the guardians present and

voting on that question (*ib.* r. 7), and in case of an equal division of votes, the chairman shall have a second or casting vote (*ib.* r. 8).

CHAP. I.
—

No man can be a judge in his own cause (see *R. v. Morton*, 1892, 1 Q. B. 39; *R. v. White*, L. R. 2 Q. B. 557; *R. v. Owens*, 2 E. & E. 86), and therefore no chairman should preside at his own election. If an outgoing chairman, or the person occupying the chair, be proposed for election as chairman, he may remain until the vice-chairman has taken the chair, or until some other person has been appointed by the meeting to take the chair, and may vote thereon, but should then immediately vacate the chair, and leave the room until his election has been completed.

If the chairman dies, or resigns (see *post*, p. 146), or becomes incapable of acting, another member shall be appointed for the period during which the person so dying, resigning, or becoming incapable would have been entitled to continue in office, and no longer (P.H.A. sch. I. pt. I. r. 4). "Incapable of acting" here means incapacity by illness, or absence during the period for which otherwise the chairman would have been "entitled to continue in office," and not incapacity from want of qualification. This provision is a disqualifying provision, and its effect is to deprive the chairman of his office of chairman if he becomes thus incapable of acting, just as much as if he dies or resigns. If his incapacity to act is by reason of temporary illness or absence, not extending for the period during which he would otherwise be entitled to continue in office, another chairman need not be appointed under this provision if there be a vice-chairman or if a vice-chairman be thereupon appointed, as the latter possesses the powers of the chairman and can act in his place or stead (see *post*, p. 8). This substituted chairman may be elected from among the members of the board, or from outside the guardians, as in the case of the original chairman (see *ante*, p. 6), but he holds office so long only as the original chairman would have been entitled to continue in office. There is no provision that if the chairman ceases to be qualified, or becomes disqualified (*cp.* L.G.A. s. 3, sub. 8), his office of chairman shall be vacated; nor that he shall continue in office until his successor has been elected (*ib.*), or has accepted office and made and subscribed the required declaration (*cp.* M.C.A. s. 15, sub. 3).

Should not
preside at his
own election.

Death,
resignation, or
incapacity.

CHAP. I. A retiring chairman is, unless disqualified to hold the office, re-eligible (L.G.A. s. 48, sub. 4 ; G.O. r. 26, par. 1 ; M.C.A. s. 37).

Re-eligibility.

VICE-CHAIRMAN.

Appointment.

Any board of guardians may, if they think fit, appoint a vice-chairman to hold office during the term of office of the chairman, and the vice-chairman shall, in the absence or during the inability of the chairman, have the powers and authority of the chairman (L.G.A. s. 59, sub. 2). Such vice-chairman may be appointed from among the guardians (see *ib.*), or from outside the guardians ; in the latter case, he must be a person qualified to be a guardian of the union, and, if appointed from outside the guardians, he becomes an additional guardian and member of the board (*ib.* s. 20, sub. 7), and thus increases its number by one. His appointment is only to be made if the board "think fit," and he therefore need not be appointed at all, or may be appointed at any time that the guardians think fit. He holds office during the term of office of the chairman, and his office does not terminate with the death or resignation of the chairman.

GUARDIANS.

Elected by parochial electors.

The guardians shall be elected by the parochial electors of the parish, and, if the parish is divided into wards for the election of guardians, the electors of the guardians for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward (L.G.A. s. 20, sub. 3, and see *post*, p. 70). The election shall, subject to the provisions of the L.G.A., be conducted according to rules framed under the L.G.A. by the Local Government Board (*ib.* sub. 5), *i.e.* according to the rules contained in the G.O.

Abolition of *ex officio* and nominated guardians.

As from the appointed day there shall be no *ex officio* or nominated guardians (L.G.A. s. 20, sub. 1). The "appointed day" here means the day on which the board of guardians, first elected under the L.G.A., come into office (*ib.* s. 84, sub. 4 (*b*) ; and see s. 79, sub. 8, *post*, p. 11), viz., Friday, the 28th of December, 1894 (G.O. r. 28), and *ex officio* and nominated guardians are thus abolished as from that day.

Ex officio guardians were justices of the peace residing in any parish, and acting for the county, riding, or division in which the parish was situate (4 & 5 Will. IV. c. 76, s. 38 ; 7 & 8 Vict. c. 101, s. 24 ; the former repealed so far as relates to *ex officio* guardians, and the latter wholly repealed by L.G.A. s. 89). Nominated guardians

were justices of the peace, or resident ratepayers nominated to act in the metropolis by the Local Government Board (30 & 31 Vict. c. 6, s. 79, repealed by L.G.A. s. 89).

The Poor Law Commissioners (now the Local Government Board) shall, by their order constituting the union, determine the number of the guardians to be elected in each union, and the number which shall be elected for any one or more of the parishes in the union, having due regard to the circumstances of each parish; provided that one or more guardians shall be elected for each parish included in such union (4 & 5 Will. IV. c. 76, s. 38; 34 & 35 Vict. c. 70).

The county council may, also, from time to time, by order, fix or alter the number of guardians to be elected for each parish within their county, and for the purposes of the election of guardians may add any parish in a union, the population of which does not exceed 300, and the aggregate rateable value of which does not exceed the average rateable value of the parishes in the same union, to some adjoining parish in the union (see L.G.A. s. 60, sub. 1; 31 & 32 Vict. c. 122, s. 6). An urban parish may thus be added to another urban parish in the union for the purpose of the election of guardians; but an urban parish cannot be added to a rural parish as the power is limited to the purposes of the elections, and guardians are elected for urban parishes only, and not for rural parishes.

Where the union is situate in more than one county, the above power shall be exercised by a joint committee of the councils of the counties concerned, in default of appointment of members by any county council, then by the members actually appointed, and any order objected to within six weeks by any of such councils shall be of no effect until confirmed by the Local Government Board (L.G.A. s. 60, sub. 3).

Where a parish is united with another parish by an order in pursuance of the L.G.A., each new parish shall bear such name as the order directs (L.G.A. s. 55, sub. 1).

Where a parish is divided into wards, the Local Government Board may by order determine the number of guardians to be elected by such ward, and may from time to time alter such number as they may think fit (39 & 40 Vict. c. 61, s. 12). The county council may

CHAP. I.

also from time to time, by order, fix or alter the number of guardians to be elected for each parish within their county, and for those purposes may divide any parish into wards, and every such ward shall, for the purposes of such election be deemed to be a separate parish, except so far as the council may otherwise order (L.G.A. s. 60, sub. 1 ; 39 & 40 Vict. c. 61, s. 12).

Where the union is situate in more than one county, the above power shall be exercised by a joint committee of the councils of the counties concerned, in default of appointment of members by any county council, then by the members actually appointed, and any order objected to within six weeks by any of such councils shall be of no effect until confirmed by the Local Government Board (L.G.A. s. 60, sub. 3).

An order dividing a parish into wards is not subject to the provisions of L.G.A. 1888, s. 57, and therefore does not require confirmation by the Local Government Board.

In divided
parishes.

Where a parish is divided by the L.G.A. into two or more new parishes, then, subject to any order made by the county council, there shall be one guardian for each of such new parishes (L.G.A. s. 79, sub. 2).

As to when a parish is divided by the L.G.A. into two or more new parishes, see Duties of County Councils, pp. 13, 21. The powers of the county council to fix and alter the number of guardians is contained not only in the above provision, but also in L.G.A. s. 60, sub. 1 (see *ante*, p. 9).

In default of
order or divi-
sion of parish.

Subject to any order made under any of the above provisions, and to any division of a parish by the L.G.A., the number of guardians to be elected for any parish or area will remain the same as before the L.G.A.

Outside
guardians.

A board of guardians may elect not more than two persons in addition to the chairman and vice-chairman (see *ante*, pp. 6, 8) from outside their own body, but from persons qualified to be guardians of the union, and any person so elected shall be an additional guardian and member of the board : provided that on the first election, if a sufficient number of persons who have been *ex officio* or nominated guardians of the union, and have actually served as such, are willing to serve, the additional members shall be elected from among those persons (L.G.A. s. 20, sub. 7).

It will be observed that this provision is permissive,

not obligatory, and that these two other persons are elected by the board, and not by the parochial electors; also, that if elected, they add two to the number of the board. At the first election, these two persons, if elected, must be sought for among the *ex officio* or nominated guardians who have actually served as guardians, and are willing to continue to serve; but at subsequent elections, no such preference need be given to former *ex officio* or nominated guardians. In any case, these additional persons must be persons qualified to be guardians of the union (as to which, see *post*, p. 31).

The first guardians elected under the L.G.A. come into office on Friday, the 28th of December, 1894 (G.O. r. 28; and see L.G.A. s. 84, sub. 2); subsequently elected guardians come into office on the 15th of April, on which day guardians go out of office, and their places are filled by newly elected guardians (*ib.* s. 20, sub. 6). It is submitted that the exact time when the out-going guardians go out of office is the first moment of the ordinary day of coming into office of the newly elected guardians, *i.e.* one moment after midnight of the previous day; and that they cannot act or vote, or take part in any meeting held on the ordinary day of coming into office of their successors (*cp. R. v. Maddy*, 11 A. & E. 886). Date of entry
into office.

The term of office of a guardian shall be three years (L.G.A. s. 20, sub. 6), but he may tender his resignation at any time, and the Local Government Board may accept such resignation for any cause which they may deem reasonable (5 & 6 Vict. c. 57, s. 11; and see *post*, p. 146). These three years are calculated from the 15th of April, the ordinary day of coming into office of guardians (see *supra*), and therefore end on the 14th of April in the year in which the guardian retires. Term of office.

Guardians may retire by thirds on the 15th of April in each year, or simultaneously on the same date in every third year. Retirement.

The leading intention of the L.G.A. is that they shall retire by thirds, and when they so retire, one-third, as nearly as may be, shall go out of office on the 15th of April in each year (L.G.A. s. 20, sub. 6). By thirds.

Of the guardians first elected under the L.G.A., save as hereinafter mentioned, one-third as nearly as may be shall continue in office until the 15th of April, 1896, and shall then retire; and one-third as nearly as may be shall continue in office until the 15th of April, 1897, and

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shall then retire; and the remainder shall continue in office until the 15th of April, 1898, and shall then retire (L.G.A. s. 79, sub. 3).

Rotation of retirement.

The guardians to retire on the 15th of April, 1896, and on the 15th of April, 1897, shall be the guardians for such parishes, wards, or other areas, as may be determined by the county council for the purpose of the rotation (L.G.A. s. 79, sub. 4).

Retiring year in triennial period.

The council of each county may, for the purpose of regulating the retirement of guardians, in cases where they retire by thirds, and in order that as nearly as may be one-third of the persons elected as guardians for the union shall retire in each year, direct in which year or years of each triennial period the guardians for each parish, ward, or other area in the union shall retire (L.G.A. s. 60, sub. 2). Where a poor law union is situate in more than one county, this power shall be exercised by a joint committee of the councils of the counties concerned, and any order made thereunder, if objected to within six weeks by any of such councils, shall be of no effect until confirmed by the Local Government Board (*ib.* sub. 3).

Simultaneous retirement.

Where at the passing of the L.G.A. (5th of March, 1894), the whole of the guardians of any union, in pursuance of an order of the Local Government Board, retire together at the end of every third year, they shall continue so to retire, unless the county council, or a joint committee of the county councils, on the application of the board of guardians or of any district council of a district wholly or partially within the union, otherwise direct (L.G.A. s. 20, sub. 6 (*b*)).

Where guardians retire together at the end of the triennial period, the guardians first elected under the L.G.A. shall retire on the 15th of April, 1898 (L.G.A. s. 79, sub. 5).

By order of county council.

Where the county council on the application of the board of guardians of any union in their county consider that it would be expedient to provide for the simultaneous retirement of the whole of the board of guardians for the union, they may direct that the members of the board of guardians for that union shall retire together on the 15th of April in every third year, and such order shall have full effect, and where a union is in more than one county, an order may be made by a joint committee of the councils of those counties (L.G.A. s. 20, sub. 6 (*a*)).

Upon the day on which the first guardians elected under the L.G.A. come into office (*i.e.* on Friday, the 28th of December, 1894, G.O. r. 28) the persons who are then members of boards of guardians, shall cease to hold office, but until that day the persons who are at the passing of the L.G.A. guardians, shall continue in office, notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day, and, except for the purpose of filling casual vacancies or electing additional guardians, no further elections shall be held (L.G.A. s. 79, sub. 8). And for the purposes of audit the present guardians are to be deemed to continue in office until the audit is completed (*ib.* s. 85, sub. 2).

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Retirement of present guardians.

The provisions of part II. of the L.G.A. respecting guardians (*viz.* ss. 20, 25) shall apply to the administrative county of London, and to every county borough (L.G.A. s. 30).

Guardians in county boroughs.

Offices are compatible or incompatible. Compatible offices are those which can be held in the same corporation by one and the same person at the same time. Incompatible offices are those which cannot be so held; and it is a rule that the acceptance of the second incompatible office vacates the first, if the latter be an office of which the holder can divest himself by his own act and without the concurrence of another authority, inasmuch as such acceptance operates as an implied surrender or resignation of the first office (*Milward v. Thatcher*, 2 T. R. 81; *R. v. Pateman*, 2 T. R. 777; *R. v. Patterson*, 9 B. & Ad. 9). The acceptance of a second incompatible office does not vacate the first, if the latter be an office of which the holder cannot divest himself, *e.g.*, the office of justice of the peace, inasmuch as in such a case no surrender or resignation can be implied. Thus, the acceptance by a justice of the peace of an appointment as justices' clerk would not vacate the office of justice of the peace, although the two offices are incompatible, because the office of justice is an office of which the holder cannot divest himself; and thus, as the two offices are incompatible, a justice is, it is submitted, precluded from accepting the office of justices' clerk. But the office of town clerk is incompatible with that of town councillor (M.C.A. s. 17, sub. 1), and therefore the acceptance by a town councillor of the office of town clerk vacates his office of town councillor, because

INCOMPATIBLE OFFICES.

Definition.

Acceptance of second office vacates first office.

CHAP. I.

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Instances of
incompatible
offices.

the latter is an office of which the holder can divest himself by resignation (*ib.* s. 36, sub. 1). And it makes no difference that one of the two offices is superior or inferior in rank or status to the other (*Milward v. Thatcher*, 2 T. R. 81).

Offices may be incompatible by express statutory enactment or by the common law; offices which are incompatible at common law may by statutory enactment be declared compatible or *vice versa*; and offices which would in general be incompatible may, it seems, by usage or custom, be compatible. Instance of offices declared incompatible by statute are the offices of overseer and assistant overseer (29 & 30 Vict. c. 113, s. 10), of town clerk and town councillor (M.C.A. s. 17, sub-s. 1), the several offices enumerated in M.C.A. s. 12, and the office of treasurer and clerk to a sanitary authority (P.H.A. s. 192). Instances of offices which are incompatible at common law are the offices of alderman and town councillor (*R. v. Bangor, Mayor of*, 18 Q. B. D. 349), of justice of the peace and justices' clerk, and of parish councillor and overseer, the last-mentioned offices because the overseer submits his account of receipts and payments to the parish council, and the two positions of accounting party and accountable party are incompatible (see *R. v. Pateman*, 2 T. R. 777; *R. v. Patterson*, 4 B. & Ad. 9). Instances of parochial offices which are incompatible at common law, but which by statutory enactment are declared compatible, are the office of chairman or member of the parish council with the office of clerk of the parish council (L.G.A. s. 17, sub. 1), or of parish treasurer (*ib.* sub. 6); for at common law the two positions of master and servant are incompatible (see also *R. v. Tizzard*, 9 B. & C. 418). And instances of offices which might otherwise be deemed incompatible, but which by custom or usage have been held compatible, are to be found in 1 Kyd on Corporations, 373 *et seq.* Where the compatibility or incompatibility of one office with another is not determined by the common law or by statute law, the nature and circumstances of the two offices and the constitution of the corporation must be considered, in order to determine whether they are compatible or not.

DIFFICULTY
AS TO
ELECTION.

Individual
guardian.

If any difficulty arises as respects the election of any individual guardian, and there is no provision for holding another election, the county council may order a new

election to be held, and give such directions as may be necessary for the purpose of holding the election (L.G.A. s. 48, sub. 5). This provision will probably supersede the ordinary process of mandamus and quo warranto generally resorted to in other elections. The language of the enactment is large, and it is not easy to see what difficulties are intended, but it is submitted that it means such a difficulty as amounts to no election and renders necessary the holding of another election, and that it does not include a difficulty in respect to the election of a guardian who has been declared elected, and which would be the proper subject of an election petition.

Whenever the county council act under the above provision, they do so judicially, and must proceed strictly and regularly in the exercise of the jurisdiction thus vested in them. They must not, therefore, decide any case of alleged difficulty without giving the individual guardian, and all persons interested, an opportunity of being heard; if such persons do not, after due notice, avail themselves of such opportunity, the council should not order a new election except on sufficient *prima facie* evidence of the facts constituting the difficulty (see *Richardson v. Methley School Board* (1893), 3 Ch. D. 510); and unless the facts show a clear case of difficulty, it is submitted that the council's better course is to leave the parties interested to take such steps as they may be advised. Where, however, a clear case is established, it is the duty of the council under the Act to order a new election to be held, and to give such directions as may be necessary for the purpose of holding the election (see per Keating, J., in *Hardwick v. Brown*, L. R. 8 C. P. 413).

If any difficulty arises with respect to the first election of guardians, or to the first meeting of a board of guardians, or if from no election being held or an election being defective or otherwise, the first board of guardians has not been properly constituted, the county council may by order make any appointment or do any thing which appears to them necessary or expedient for the proper holding of any such first meeting or election and properly constituting the board of guardians, and may, if it appears to them necessary, direct the holding of a meeting or election, and fix the dates for any such meeting or election (L.G.A. s. 80, sub. 1). Any such

Notice to
persons
interested.

First
elections.

CHAP. I.

order may modify the provisions of the L.G.A., and the enactments applied by or rules framed under the L.G.A. so far as may appear to the county council necessary or expedient for carrying the order into effect (*ib.*). The wide power thus given to modify statutory enactments and rules framed by the Local Government Board will probably enable the county council to surmount any difficulty whatever; as to the mode in which the council should exercise the jurisdiction thus vested in them, see *ante*, p. 15.

FAILURE
TO ELECT.

In particular
parish.

In every case in which no person shall be elected for the office of guardian in any parish at any annual election of guardians, the persons elected for the previous year may continue to act as guardians until the next annual election (5 & 6 Vict. c. 57, s. 10). Such a failure may be partial or it may be complete, and the two results lead to different consequences. If it be complete, (*i.e.* if no guardian be elected for the parish at the annual election, whether the parish be entitled to elect one or more), the guardian or guardians elected for the parish for the previous year, if they continue to be qualified, may continue to act until the next annual election. If any guardian be elected (*e.g.* if the parish be entitled to three guardians, and only one is elected), the enactment does not apply, and the guardians for the previous year cannot continue to act. Where the enactment does apply, the guardians elected for the previous year cannot continue to act beyond the next annual election; so that, if at that election there should be another failure to elect, they cannot serve for the third year under this provision. But in those parishes and unions where the guardians serve for three years, the previously elected guardian is empowered to continue in office until the expiration of two years after the next annual election. The power to continue to act is permissive, not obligatory, and where there are several guardians, some may continue to act, though others refuse, and if any one declines to continue to act, the vacancy can only be supplied by a fresh election. It seems that, so far as the previous guardians are willing to continue, there is no vacancy.

In election of
full number.

In case the full number of guardians shall not be duly elected at any election of guardians the others or remaining members of the board shall continue to act until the next election or until the completion of the

said board as if the number of such board were complete (4 & 5 Will. IV. c. 76, s. 38).

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In case the full number of guardians shall not be or shall not have been elected at any election of guardians, or in case of any vacancy in any board of guardians by the death, removal, resignation, refusal, or disqualification to act of any elected guardian, the other or remaining members of the said board, being not less than a quorum, shall be and be deemed to have been competent to act until the next election, or until the completion of the said board, as if the number of such board were complete: and no acts or proceedings shall be liable to be questioned on account of any failure to elect any guardian or guardians, or on account of any vacancy as aforesaid (5 & 6 Vict. c. 57, s. 12; L.G.A. s. 59, sub. 1; P.H.A. sch. I. part I. r. 2).

No defect in the qualification or election of any person acting as a guardian at a board of guardians, the majority of persons assembled at which shall be entitled to act as guardians, shall be deemed to vitiate or make void any proceedings of such board in which he may have taken part (5 & 6 Vict. c. 57, s. 13).

Validity of
acts of
incomplete
board.

B.—RURAL DISTRICT COUNCILS.

Rural district councillors are elected for parishes in rural districts. As to what is a "parish," see *ante*, p. 2. A parish situate in more than one administrative county shall, for the purposes of the R.O. be deemed to be wholly situate in the county which, according to the census of 1891, contains the larger part of its population (R.O. r. 29). A rural district (formerly called a "rural sanitary district") is the area of a union or parish subject to the jurisdiction of a separate board of guardians, less so much, if any, of such area as is included in an urban district (see P.H.A. ss. 9, 4; L.G.A. s. 21, sub. 2); as to what is an urban district, see *ante*, p. 3. The rural district council is the successor of the rural sanitary authority (L.G.A. s. 25).

ESTABLISH-
MENT OF
RURAL
DISTRICT
COUNCILS.

Definitions.

For the purpose of carrying the L.G.A. into effect in the case of every rural sanitary district which on the 5th of March, 1894, had less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district, and which on the appointed day will still have less than five such guardians,

Districts with
less than five
elective
guardians.

CHAP. I.

the county council shall cause inquiries to be made, and make such orders as they deem suitable so that such district shall be united to some neighbouring district or districts, unless they for special reasons think fit to direct otherwise (L.G.A. s. 36, sub. 1 (d) (iii.). The Act does not require that such rural district should be united to a rural district, and it may therefore be united to a neighbouring urban or rural district or districts as may seem most expedient, or part may be united to an urban and part to a rural district. Where the county council find on consideration that special reasons exist why such a district should not be united to some neighbouring district or districts, they should make an order accordingly, stating such reasons, and it will remain for the Local Government Board to deal with the case, either when such order is submitted to them for confirmation, or, if such order be confirmed, under the following provision.

Where the number of councillors of any rural district will be less than five, the provisions, so far as unrepealed, of P.H.A. s. 9, with respect to the nomination of persons to make up the members of a rural authority to five, shall apply, unless the Local Government Board by order direct that the affairs of the district shall be temporarily administered by the district council of an adjoining district in another county with which it was united before the appointed day, and, if they so direct, the councillors of the district shall be entitled, so far as regards those affairs, to sit and act as members of that district council (L.G.A. s. 24, sub. 5); and the said provisions of P.H.A. s. 9, shall apply to the district council of a rural district to which they applied on the 5th of March, 1894 (*ib.* s. 24, sub. 6). Under the unrepealed provisions of P.H.A. s. 9, where the number of elective guardians, not disqualified from acting and voting, is less than five, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number, and the persons so nominated shall be entitled to act and vote as members of the rural authority. In any such case, therefore, the Local Government Board determine whether the number of guardians shall be made up to five, or whether the affairs of the district shall be administered by the council of an adjoining district.

Where a rural parish is co-extensive with a rural

sanitary district, then, until the district is united to some other district or districts, and unless the county council otherwise direct, a separate election of a parish council shall not be held for the parish, but the district council shall, in addition to their own powers, have the powers of, and be deemed to be, the parish council (L.G.A. s. 36, sub. 4). The county council are required forthwith on the passing of the Act to take every such case into consideration, and may alter its area or boundaries, or unite it to some other district or districts (see *ib.* sub. 1, *et seq.*), and if they leave the parish and district intact, they must then determine whether the parish shall or shall not have a parish council. The object of the provision is that there shall not be a parish and a district council both exercising jurisdiction in the same area, and therefore *primâ facie* such a parish is to be left to the operation of the statute, and is not to have a separate parish council, but is to be governed by its district council. The above provision operates only "until the district is united to some other district or districts"; upon that event the parish comprised in the district will come under the other provisions of the Act relating to parish councils.

CHAP. I.

District council acting as parish council.

For the purpose of fixing or altering the number of rural district councillors to be elected for each parish within their county, the county council may exercise the power of dividing parishes into wards in the same manner as in the case of guardians (L.G.A. s. 60, sub. 1, and see *ante*, p. 4). If the parish is divided into wards for the election of rural district councillors, the rules of the R.O. shall, except as otherwise provided, apply to each of such wards as if it were a parish (R.O. r. 30, par. 1).

Parish wards.

For the purpose of fixing or altering the number of rural district councillors to be elected for each parish within their county, the county council may, from time to time, exercise powers of adding parishes to each other in the same manner as in the case of guardians (L.G.A. s. 60, sub. 1, and see *ante*, p. 5). If the parish is united with any other parish for the election of rural district councillors, the rules of the R.O. shall, subject as therein mentioned, apply as if such parishes formed the parish (R.O. r. 31, par. 1).

United parishes.

The rural district council shall consist of a chairman and councillors (L.G.A. s. 24, sub. 1), and of a vice-

CONSTITUTION, INCORPORATION, AND STYLE.

- CHAP. I. chairman if the council think fit (*ib.* s. 59, sub. 2, *post*,
 Name. p. 21). It shall be a body corporate by the name of the district council, with the addition of the name of the district, or if there is any doubt as to the latter name, of such name as the county council direct, and shall have perpetual succession and a common seal, and may hold land for the purposes of their powers and duties without licence in mortmain (L.G.A. s. 24, sub. 7). The name will thus be "The Rural District Council of . . . (see *ib.* s. 21, sub. 2). Any district council may, with the sanction of the county council, change their name and the name of their district (*ib.* s. 55, sub. 3). Every change of name shall be published in such manner as the authority authorising the change may direct, and shall be notified to the Local Government Board (*ib.* s. 55, sub. 4). Any such change of name shall not affect any rights or obligations of any parish, district, council, authority, or person, or render defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name (*ib.* s. 55, sub. 5).
- Quorum. The provisions as to the quorum are the same as in the case of a board of guardians (see *ante*, p. 6).
- CHAIRMAN. The provisions of the L.G.A. with respect to the election of the chairman, his qualification and mode of election, and his death, resignation, or incapacity (see *ante*, p. 6), apply to the chairman of the district council of a rural district (L.G.A. s. 24, sub. 4; s. 59, sub. 1). A retiring chairman, unless disqualified to hold office, is re-eligible (*ib.* s. 48, sub. 4; R.O. r. 25, par. 1; M.C.A. s. 37). It seems that the chairman elected from outside the council is not a guardian, the provision as to rural district councillors acting as guardians being confined to such councillors, and not extending to such a chairman (see L.G.A. s. 24, sub. 3, and *cp.* s. 20, sub. 7).
- Justice of the peace. The chairman of a district council, unless a woman or personally disqualified by any Act, shall be by virtue of his office justice of the peace for the county in which the district is situate, but before acting as such justice he shall, if he has not already done so, take the oaths required by law to be taken by a justice of the peace, other than the oath respecting the qualification by estate (L.G.A. s. 22).
- First meeting and first chairman. The first meeting of the rural district council shall be convened by the returning officer (L.G.A. s. 79, sub. 9),

at such place and on such day (not being more than ten days after the completion of the election) as the returning officer may by written notice to each member of the council appoint (*ib.* s. 59, sub. 1 ; P.H.A. sch. I. part I. r. 12). If the rural district is situate in more than one poor law union, the returning officer for the purpose of convening the first meeting of the rural district council shall be the returning officer at the election of rural district councillors in that part of the district which, according to the census of 1891, has the larger population (R.O. r. 27, par. 2). The members shall appoint one of their number to be chairman at such meeting, and shall elect a person to be chairman for one year at all meetings at which he is present (L.G.A. s. 59, sub. 1 ; P.H.A. sch. I. part I. r. 12), but notwithstanding these latter words it seems that the first chairman of the district council will go out of office at the annual meeting in 1895, viz., on the 15th of April, 1895.

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Any rural district council may, if they think fit, appoint a vice-chairman to hold office during the term of office of the chairman, in the same manner, and with the same powers and authority, as in the case of a vice-chairman of a board of guardians (L.G.A. s. 59, sub. 2, and see *ante*, p. 8).

VICE-
CHAIRMAN.

Appointment.

The district councillors shall be elected by the parishes or other areas for the election of guardians in the district (L.G.A. s. 24, sub. 1). "Parishes," include those divided by the L.G.A. or otherwise, and united parishes ; as to what is a parish, see *ante*, p. 2, and as to uniting parishes, see *ante*, p. 9. The "other areas for the election of guardians in the district" are wards of parishes and groups of parishes. The provisions of the L.G.A. with respect to the election of guardians shall apply to rural district councillors (*ib.* s. 24, sub. 4, see *ante*, p. 8). The election shall, subject to the provisions of the L.G.A., be conducted according to rules framed under the L.G.A., by the Local Government Board (*ib.* s. 20, sub. 5), *i.e.* according to the rules in the R.O.

COUN-
CILLORS.

Elected by
parochial
electors.

The number of councillors for each parish or other area in a rural district shall be the same as the number of guardians for that parish or area (L.G.A. s. 24, sub. 2) ; as to what is the latter number, see *ante*, p. 9).

Number.

The county council may, from time to time, by order, fix or alter the number of rural district councillors to be elected for a parish within their county, and for the

In parish
wards or
united
parishes.

CHAP. I.

purpose of the election of rural district councillors may add parishes to each other and divide parishes into wards in the same manner as in the case of guardians (see L.G.A. s. 60, sub. 1, and *ante*, p. 9). A rural parish may thus be added to another rural parish in the rural district, but a rural parish cannot be added to an urban parish as the power is limited to the purposes of the elections, and rural district councillors are elected for rural parishes only and not for urban parishes. Where a poor law union is situate in more than one county, the above power must be exercised by a joint committee of the councils of the councils concerned, and in case of objection by any of such counties, the order shall be of no effect until confirmed by the Local Government Board as in the case of guardians (*ib.* sub. 3, and see *ante*, p. 9).

In divided
parishes.

Where a parish in a rural district is divided by the L.G.A. into two or more new parishes, then, subject to any order made by the county council, there shall be one district councillor for each of such new parishes (L.G.A. s. 79, sub. 2).

Date of entry
into office.

The first rural district councillors elected under the L.G.A. come into office on the Friday, the 28th of December, 1894 (R.O. r. 27, par. 1 ; and see L.G.A. s. 84, sub. 2) ; subsequently elected councillors come into office on the 15th of April, on which day rural district councillors go out of office, and their places are filled by newly elected councillors (*ib.* s. 24, sub. 4 ; s. 20, sub. 6). As to the exact moment when they go out of office, see *ante*, p. 11.

Term of
office.

The term of office of a rural district councillor is three years (L.G.A. s. 24, sub. 4 ; s. 20, sub. 6). A rural district councillor is in the same position with respect to resignation as a member of a board of guardians (*ib.* s. 48, sub. 4 (*a*), as to which, see *post*, p. 146. These three years are calculated from the 1st of April, the ordinary day of coming into office of councillors (see *supra*), and therefore end on the 14th of April in the year in which the councillors retire.

Retirement.

The provisions of the L.G.A. with respect to the retirement of guardians apply to rural district councillors (L.G.A. s. 24, sub. 4) ; as to these provisions, see *ante*, p. 11. The rural district councillors to retire on the 15th of April, 1896, and 15th of April, 1897, shall be the councillors for such parishes, wards, or other areas as

may be determined by the county council for the purpose of the rotation (*ib.* s. 79, sub. 4). Where the district councillors retire together at the end of the triennial period, the district councillors first elected under the L.G.A. shall retire on the 15th of April, 1898 (L.G.A. s. 79, sub. 5).

CHAP. I.

The persons who are at the passing of the L.G.A. members of rural sanitary authorities shall cease to hold office upon the day on which the first rural district councillors elected under the L.G.A. come into office (L.G.A. s. 79, sub. 8); *i.e.* on Friday, the 28th of December, 1894 (R.O. r. 27, par. 1).

Of existing rural sanitary authority.

The district councillors for any parish or other area in a rural district shall be the representatives of that parish or area on the board of guardians, and when acting in that capacity shall be deemed to be guardians of the poor, and guardians as such shall not be elected for that parish or area (L.G.A. s. 24, sub. 3). A rural district councillor is thus the representative of his parish both on the board of guardians of the union comprising the parish and on the rural district council of the district comprising the parish. The union may comprise urban parishes, and thus the board of guardians is a separate entity from the council of a rural district, which latter comprises rural parishes only. A poor law union may comprise any number of urban rural districts, and a rural district may comprise any number of unions. But whenever the area of the union coincides with that of the rural district, the board of guardians will be merged in the rural district council.

Functions as guardians.

The power of the county council to remove any difficulty as respects the election of an individual councillor, or with respect to the first election of councillors, or with respect to the first meeting of a rural district council, is the same as in the case of guardians (see *ante*, p. 15).

DIFFICULTY AS TO ELECTION.

If any district council, other than a borough council, becomes unable to act, whether from failure to elect or otherwise, the county council in which the district is situate may order elections to be held and may appoint persons to form the district council until the newly elected members come into office (L.G.A. s. 59, sub. 5). A district council becomes unable to act if it possesses an insufficient number of qualified members to form a quorum; as to what is a quorum, see *ante*, pp. 20, 6. In such case it can do nothing, and the appointment of a temporary substitute is needful. In this event it is well

Failure to elect.

CHAP. I.

to bear in mind that "person" includes any body of persons, whether corporate or unincorporate (L.G.A. s. 75, sub. 1; L.G.A. 1888, s. 100), and the county council may thus appoint any body of persons or a corporation as such substitute.

C.—URBAN DISTRICT COUNCILS.

ESTABLISH-
MENT OF
URBAN
DISTRICT
COUNCILS.

Definitions.

Urban district councillors are elected for parishes in urban districts other than boroughs (*viz.* in local government and improvement act districts). As to what is a parish, what an urban district, and what are local government and improvement act districts (see *ante*, p. 3).

Existing
urban
districts.

Existing urban districts have been formed by provisional orders of the Local Government Board, either on their own initiative (P.H.A. s. 271), or on resolution of the owners and ratepayers of any place, passed in the prescribed manner (*ib.* s. 272).

Conversion of
existing and
formation of
new districts.

An existing rural district may, by order of the county council, be converted into an urban district, and an existing urban district may similarly be converted into a rural district, or the whole or any part of any such district may, by such an order, be transferred from one district to another, and new urban or rural districts may be formed (L.G.A. 1888, s. 57, sub. 1). A proposal must be made to the county council, an inquiry must be held by them, and the proposed order must be confirmed by the Local Government Board (*ib.* subs. 1, 2, 3, 4). As to what is a rural district, see *ante*, p. 17).

All existing urban districts, whether called improvement Act districts, local government districts, or urban sanitary districts, and all new urban districts hereafter to be formed, will therefore, as from the appointed day, or the day named in the order creating them, be governed by urban district councils. The appointed day is the day on which the members of the urban district councils first elected under the L.G.A. come into office (L.G.A. s. 84, sub. 4 (*b*); *i.e.* Monday, the 31st of December, 1894 (U.O. r. 27).

Division into
wards.

The county council may, by order, divide an urban district into wards, and may alter the number of wards, or the boundaries of any ward (L.G.A. 1888, s. 57, sub. 1). A proposal must be made to the county council, and an inquiry must be held by them, but the order does not

require confirmation by the Local Government Board CHAP. I.
(*ib.* subs. 1, 2).

If the district is divided into wards for the election of urban district councillors, the rules of the U.O. shall apply to each of such wards as if it were a district (U.O. r. 29, par. 1).

An urban district council consists of a chairman, a vice-chairman if the council thinks fit, and councillors. Every existing urban district council is a body corporate with perpetual succession and a common seal, and with power to hold lands without any licence in mortmain (P.H.A. s. 7; L.G.A. s. 21, sub. 1). There is no provision as to the name of a district council, but it is submitted that their name is "The Urban District Council of _____." Any district council may, with the sanction of the county council, change their name and the name of their district (*ib.* s. 55, sub. 3); and as in the case of a rural district council (see *ante*, p. 20), every change of name shall be published and notified, and shall not affect any rights or obligations, or render defective any legal proceedings.

The provisions as to the quorum are the same as in the case of a board of guardians (see *ante*, p. 6).

The urban district council shall from time to time at their annual meeting elect a person to be chairman for one year at all meetings at which he is present (L.G.A. s. 59, sub. 1; P.H.A. sch. I. pt. I. r. 3), and the annual meeting shall be held as soon as may be convenient after the 15th of April in each year (*ib.* r. 11). The chairman may be elected from among the councillors (P.H.A. sch. I. pt. I. r. 3), or from outside the councillors (L.G.A. s. 59, sub. 1), but there is no provision that a chairman elected from outside the councillors shall be qualified to be a councillor (*cp.* s. 3, sub. 8; s. 20, sub. 7), or even that he shall be a "fit" person (*cp.* M.C.A. s. 15, sub. 1), and, *semble*, therefore, any man chosen from outside the council may be elected chairman of an urban district council. A woman, married or single, if a councillor, may be elected chairman (see L.G.A. s. 23, sub. 2); but a woman cannot be chosen chairman from outside the council, as at common law she is not entitled to exercise any public function, and if it be intended that she should exercise any such function, she must be thereunto specially qualified by statute, or by such a well-recognised custom as has, in some exceptional cases (*e.g.* that

CONSTITUTION, INCORPORATION, AND STYLE.

Name.

Quorum.

CHAIRMAN.

Election of chairman.

CHAP. I.

of overseer of the poor), established her qualification (see *Beresford-Hope v. Lady Sandhurst*, 23 Q. B. D. 79; *De Souza v. Cobden* (1891) 1 Q. B. 687). A woman is not specially qualified by the L.G.A. to be elected chairman from outside the council, and, of course, no custom that she shall be so elected yet exists.

The election of a chairman is obligatory on the council, and shall be conducted in the same manner and under the same provisions as the election of a chairman of a board of guardians (see *ante*, p. 6). If the chairman dies, resigns, or becomes incapable of acting, another chairman shall be appointed under the same provisions and in the same manner as a chairman of a board of guardians (see *ante*, p. 7). A retiring chairman, who was elected from among the councillors, is, unless disqualified to hold the office, re-eligible (L.G.A. s. 48, sub. 4; U.O. r. 25, par. 1; M.C.A. s. 37). The chairman is a justice of the peace for the county (L.G.A. s. 22, *ante*, p. 20).

First meeting
and first
chairman.

The first meeting of the urban district council shall be convened by the returning officer, and the first chairman shall be elected under the same provisions and in the same manner as in the case of a rural district council (see *ante*, p. 20).

VICE-
CHAIRMAN.

Appointment.

Any urban district council may, if they think fit, appoint a vice-chairman to hold office during the term of office of the chairman, and the vice-chairman shall, in the absence or during the inability of the chairman, have the powers and authority of the chairman (L.G.A. s. 59, sub. 2). Such vice-chairman must be appointed from among the councillors, there being no provision that he may be appointed from outside the councillors (*cp. ib.* s. 20, sub. 7). His appointment is only to be made if the council "think fit," and he, therefore, need not be appointed at all, or may be appointed at any time that the council think fit. He holds office during the term of office of the chairman, and his office therefore does not terminate with the death or resignation of the chairman.

COUN-
CILLORS.

Elected by
parochial
electors.

Urban district councillors shall be elected by the parochial electors of the parishes in the district, and, if the district is divided into wards, the electors of the councillors for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward (L.G.A. s. 23, sub. 3; and see *post*,

p. 70). The election shall, subject to the provisions of the L.G.A., be conducted according to rules framed under the L.G.A. by the Local Government Board (*ib.* sub. 5); *i.e.* according to the rules in the U.O. CHAP. I.
—

The number of members of an urban district council is such number as is determined by the order forming the district; *i.e.* the improvement Act district, the local government district, or the urban district. Such number may be altered by the county council after due inquiry, and their order does not require confirmation by the Local Government Board (L.G.A. 1888, s. 57, sub-ss. 1, 2). Number.

The first district councillors elected under the L.G.A. come into office on the Monday, 31st of December, 1894 (U.O. r. 27; and see L.G.A. s. 84, sub. 2); subsequently elected councillors come into office on the 15th of April, on which day the councillors go out of office and their places are filled by newly elected councillors (*ib.* s. 23, sub. 6). As to the exact moment when they go out of office, see *ante*, p. 11. Date of entry
into office.

The term of office of an urban district councillor is three years (L.G.A. s. 23, sub. 6); but he may resign at any time (see *post*, p. 147). These three years are calculated from the 15th of April, the ordinary day of coming into office of urban district councillors (see *supra*), and therefore end on the 14th of April in the year in which the councillor retires. Term of
office.

Urban district councillors may retire by thirds on the 15th of April in each year, or simultaneously on the same date in every third year. Retirement.

When urban district councillors retire by thirds, one-third, as nearly as may be, shall go out of office on the 15th of April in each year (L.G.A. s. 23, sub. 6). If the urban district is divided into wards, one-third, as nearly as may be, of the councillors for each ward shall go out of office on the 15th of April in each year (*ib.*). By thirds.

Of the urban district councillors first elected under the L.G.A., save as hereinafter mentioned, one-third as nearly as may be shall continue in office until the 15th of April, 1896, and shall then retire: and one-third, as nearly as may be, shall continue in office until the 15th of April, 1897, and shall then retire; and the remainder shall continue in office until the 15th of April, 1898, and shall then retire (L.G.A. s. 79, sub. 3).

Of the first urban district councillors elected under

CHAP. I.

the L.G.A., the third who are respectively to retire on the 15th of April, 1896 and 1897, shall be determined according to their place on the poll at the election, those that were lowest on the poll retiring first (L.G.A. s. 79, sub. 6). If there was no poll, or if a question arises in consequence of an equality of votes between two or more councillors, the matter shall be determined by ballot conducted under the direction of the council (*ib.*). The ballot is a ballot, not of the electors, but of the district council, *i.e.* of such members of the council as are present at the time the ballot is taken, and as such ballot is to be conducted under the direction of the council, they have full power to determine the mode and manner of taking it.

In the case of an urban district divided into wards, the foregoing provisions with respect to retirement (*i.e.* sub-s. 3, 6) shall apply separately to each ward (L.G.A. s. 79, sub. 7).

Simultaneous
retirement.

A county council may, on request made by a resolution of an urban district council, passed by two-thirds of the members voting on the resolution, direct that the members of such council shall retire together on the 15th of April in every third year, and such order shall have full effect (L.G.A. s. 23, sub. 6). If no such order be made, one-third, as nearly as may be, of the council shall go out of office on the 15th of April in each year (*ib.*). One-third of the full number of members of the urban district council must be present to form a quorum, provided that a larger quorum than seven is not required (*ib.* s. 59, sub. 1; P.H.A. sch. I. r. 2), and the above resolution must be passed by two-thirds of those voting thereon. It is discretionary with the county council whether they shall or shall not make an order in compliance with this request. It will be observed that the requisite majority of the district council is not a two-thirds majority of the whole council, nor of those present at the meeting, but only of those voting on the resolution.

Retirement
of present
urban autho-
rities.

The persons who are at the passing of the L.G.A. members of urban sanitary authorities for districts not being boroughs, shall cease to hold office upon the day on which the first urban district councillors elected under the L.G.A. come into office (L.G.A. s. 79, sub. 8), *i.e.* on Monday, the 31st of December, 1894 (U.O. r. 27).

DIFFICULTY
AS TO
ELECTION.

The power of the county council to remove any diffi-

culty as to the election of an individual councillor, or with respect to the first election of councillors, or with respect to the first meeting of an urban district council, or in case of the inability to act of any such council, and to appoint a substitute in such a case, is the same as in the case of a rural district council, as to which, see *ante*, p. 23.

QUALIFICATION OF MEMBERS.

A.—GUARDIANS.

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C.—URBAN DISTRICT COUNCILLORS.

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A.—GUARDIAN.

All questions of the *qualification* of a guardian, so far as such questions depend on statute, are now determined by the L.G.A., the previous statutory provisions on the subject having been repealed by the provision that so much of any enactment, whether in a public, general, or local and personal Act, as relates to the qualification of a guardian shall be repealed (L.G.A. s. 20, sub. 2). It will be observed that this repeal relates to *qualifications* only, *disqualifications* created by existing enactments not being repealed.

By the same section of the L.G.A. (s. 20, sub. 2), it is enacted that a person shall not be qualified to be elected or to be a guardian for a poor law union unless he—

- (a.) Is a parochial elector of some parish within the union (see *post*, p. 32); or
- (b.) Has during the whole of the twelve months pre-

QUALIFICA-
TION FOR
ELECTION
AND ACTING.

Repeal of
existing
statutes.

Statutory
enactment.

CHAP. II.

ceding the election resided in the union (see *infra*);

or, in the case of a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not;

(c.) Is qualified to be elected a councillor for that borough (see *post*, p. 33).

Of these qualifications in their order.

(a.) Parochial elector.

(a.) A person shall be qualified to be elected and to be a guardian for a poor law union if he be a parochial elector of some parish within the union (L.G.A. s. 20, sub. 2). The word "person" includes females (see 52 & 53 Vict. c. 63, s. 1, sub. 1 (a), and moreover it is expressly enacted that no person shall be disqualified by sex or marriage for being elected or being a guardian (L.G.A. s. 20, sub. 2). A woman, whether married or single, is therefore capable of being elected and being a guardian, if she be a parochial elector or possesses the necessary residential qualification. This residential qualification a married woman may possess in conjunction with her husband; in other words, a residential qualification which is sufficient to entitle a husband to be elected also entitles his wife to be elected, if both are living together. If they are living apart, the wife's residential qualification must be such as would qualify a single woman to be elected. If a husband and wife have each a sufficient qualification, they are both eligible on the same board of guardians. "Poor law union" means any parish or union of parishes for which there is a separate board of guardians (L.G.A. 1888, s. 100; L.G.A. s. 75, sub. 2; 52 & 53 Vict. c. 63, s. 16, sub. 2). As to who is a parochial elector, see *post*, p. 68; and as to what is a parish, see *ante*, p. 2.

(b.) Residential qualification.

(b.) A person shall be qualified to be elected and to be a guardian for a poor law union if he has, during the whole of the twelve months preceding the election, resided in the union (L.G.A. s. 20, sub. 2). "Month" means calendar month (52 & 53 Vict. c. 63, s. 3), and the twelve months must be consecutive. "Election" includes both the nomination and the poll (L.G.A. s. 75, sub. 2), and therefore a person, not being a parochial elector, who seeks to be nominated for election as a guardian on the 5th of December, 1894, must have resided continuously in the union from the 5th of December, 1893, to the day of nomination. As to what

constitutes "residence," see *post*, p. 40. Temporary absence for business or pleasure during such twelve months is immaterial if the residence continues solely in the union during the twelve months. A person who has thus resided in the union up to the day of election does not, it would seem, become disqualified if on or after the day of election he ceases to reside in the union.

(c.) A person shall be qualified to be elected and to be a guardian for a poor law union, if, in the case of a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, he is qualified to be elected a councillor for that borough (L.G.A. s. 20, sub. 2). The expression "borough" means any place for the time being subject to the M.C.A. (L.G.A. 1888, s. 100; L.G.A. s. 75, sub. 2); and a county borough is one of the large boroughs named in sch. III. of the L.G.A. 1888. This qualification is additional to the two other qualifications (a) and (b), and a guardian for a parish wholly or partly in a borough may qualify under any one of the three qualifications. With regard to (a), the expression "parochial elector" when used with reference to a parish in an urban district, or in any county borough, means a person who would be a parochial elector if the parish were a rural parish (L.G.A. s. 75, sub. 2). (c.) Qualification as town councillor.

The enactments relating to the qualification of a councillor for a borough are M.C.A. s. 11 (qualification), and M.C.A. s. 12 (disqualification, see *post*, p. 47). The former is as follows:—

(1.) The councillors shall be fit persons elected by the burgesses.

(2.) A person shall not be qualified to be elected or to be a councillor, unless he—

(a.) Is enrolled and entitled to be enrolled as a burgess; or

(b.) Being entitled to be so enrolled in all respects except that of residence, is resident beyond seven miles, but within fifteen miles of the borough, and is entered in the separate non-resident list directed by the M.C.A. to be made; and

(c.) In either of those cases, is seised or possessed of real or personal property or both, to the value or amount, in the case of a borough having four or more wards, of one thousand pounds,

and in the case of any other borough, of five hundred pounds, or is rated to the poor rate in the borough, in the case of a borough having four or more wards, on the annual value of thirty pounds, and in the case of any other borough of fifteen pounds.

(3.) Provided, that every person shall be qualified to be elected and to be a councillor, who is, at the time of election, qualified to elect to the office of councillor; which last-mentioned qualification for being elected shall be alternative for and shall not repeal or take away any other qualification.

(4.) But if a person qualified under the last foregoing proviso ceases for six months to reside in the borough, he shall cease to be qualified under that proviso, and his office shall become vacant, unless he was at the time of his election and continues to be qualified in some other manner.

Upon this enactment the first points to be observed are: (1) that the councillors must be "fit" persons (see *post*, p. 35); (2) that mere enrolment as a burgess, though a sufficient title to *vote* (M.C.A. s. 51, sub. 1), is not alone a sufficient title for election, inasmuch as a person elected under this section must not only be enrolled, but must be "entitled to be enrolled" as a burgess (see *Middleton v. Simpson*, 5 C. P. D. 183; *R. v. Dixon*, 15 Q. B. 33; *Flintham v. Roxburgh*, 17 Q. B. D. 44); (3) that all persons resident within, or within seven miles of the borough, and enrolled and entitled to be enrolled as burgesses, are eligible to the office of councillor without any property or rating qualification, and that this is the simplest qualification in the M.C.A., and is that under which councillors are most usually elected; and (4) that all persons resident beyond seven but within fifteen miles of the borough, and entered in the separate non-resident list, are also eligible, but must possess the property or rating qualification mentioned in M.C.A. s. 11, sub. 2 (c), and lose this qualification as soon as they cease to be so resident. It is further to be observed that the words "qualified to elect" refer only to the qualifications in M.C.A. s. 9, and that a person who is entitled "to demand and receive a voting paper and to vote," simply because he is enrolled in the burgess roll (see M.C.A. s. 51, sub. 1), is not thereby "qualified to elect," if he is not qualified under M.C.A.

s. 11, inasmuch as s. 51 only carries out the provisions as to qualification of a person in his capacity of voter, and has no reference to the qualifications of a councillor (*Flintham v. Roxburgh*, 17 Q. B. D. 44). And if a person is in fact enrolled, but is misnamed in the roll, he is eligible if his description in the roll is such as to be commonly understood (M.C.A. s. 241, and as to the meaning of "commonly understood," see *post*, p. 100).

A "fit" person is one legally competent to perform the duties of the office to which he seeks election. Thus an habitual drunkard is unfit (*R. v. Taylor*, 3 Salk. 231, but see *post*, p. 61); and an idiot, a lunatic (unless elected during a lucid interval), and a deaf and dumb person would doubtless be held unfit (see *post*, pp. 62, 63, 61), but a blind person is not unfit (*ib.*) though he is exempt from election (see *post*, p. 64). A returning officer is ineligible at common law, and therefore unfit (see *post*, p. 63).

The recorder (M.C.A. s. 163, sub. 6), the town clerk, the borough treasurer (*ib.* s. 18, sub. 1), the elective auditors (*ib.* s. 25 sub. 2) of a municipal borough, the clerk to borough justices (*ib.* s. 159, sub. 2), and the borough coroner (*ib.* s. 171, sub. 1), are disqualified from being members of the town council of their municipal borough.

Women, whether married or single, are disqualified for election as town councillors (*Beresford-Hope v. Lady Sandhurst*, 23 Q. B. D. 79; *De Souza v. Cobden* (1891) 1 Q. B. 687).

According to the present decisions, an alderman is ineligible as a town councillor, but vacates his office of alderman immediately on his accepting his new office of town councillor (*R. v. Bangor, Mayor, etc. of*, 18 Q. B. D. 349). But this decision has been questioned in the House of Lords, and the point cannot be considered as definitely settled (*Pritchard v. Bangor, Mayor, etc. of*, 13 App. Cas. 241).

We now come to the consideration of what persons are "entitled to be enrolled" as burgesses. It is enacted that a person shall not be entitled to be enrolled as a burgess unless he is qualified as follows:—

(a.) Is of full age, and

(b.) Is on the 15th of July in any year, and has been during the whole of the then last preceding twelve months, in occupation, joint or several,

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of any house, warehouse, counting-house, shop, or other building (in the M.C.A. referred to as "the qualifying property") in the borough; and

- (c.) Has during the whole of those twelve months resided in the borough, or within seven miles thereof; and
- (d.) Has been rated in respect of the qualifying property to all poor rates made during those twelve months for the parish wherein the property is situate; and
- (e.) Has on or before the 20th of the same July paid all such rates, including borough rates (if any), as have become payable by him in respect of the qualifying property up to the then last preceding 5th of January.

Every person so qualified shall be entitled to be enrolled as a burgess, unless he :—

- (a.) Is an alien; or
- (b.) Has within the twelve months aforesaid received union or parochial relief or other alms; or
- (c.) Is disentitled under any Act of Parliament (M.C.A. s. 9, sub-ss. 2, 3).

Every person enrolled in the burgess roll shall be deemed to be enrolled as a burgess, and every person not enrolled in the burgess roll shall be deemed to be not enrolled as a burgess (M.C.A. s. 45, sub. 8).

Full age.

The first requirement is that a person to be entitled to be enrolled as a burgess shall be of full age. Full age is completed at the first moment of the day preceding the twenty-first anniversary of a person's birth, for the law does not notice a fraction of a day, and a person is thus of full age though he may not have lived twenty-one years by nearly forty-eight hours (1 Salk. 44, 2 *ib.* 625; *acc.* 1 Black. Comm. 464). Thus, a person born at any hour on the 6th of December, 1873, attained his majority immediately after midnight on the night of the 4th of December, 1894 (the first moment of the morning of the 5th of December, 1894). It is not necessary that the elector should have been of full age during the whole of the prescribed period of occupation and residence; it is sufficient if he attains his full age on the 15th of July in the year in which he is to be registered (*Powell v. Bradley*, 18 C. B. N.S. 65). But it is not sufficient if he attains full age after that date

though before the election (*Hargreaves v. Hopper*, CHAP. II.
1 C. P. D. 195).

The next requirement is that the burgess shall have Occupation.
been in occupation, joint or several, of his qualifying property for the period above mentioned. Occupation is the actual user by a person lawfully entitled to exclusive possession, for the purposes of a dwelling-house or of his trade, business, or profession. Occupation by an agent or servant is sufficient (*Nunn v. Denton*, 7 M. & G. 66), and so is occupation jointly with another (see *Unwin v. McMullen* (1891) 1 Q. B. 694). It is also sufficient if the owner or tenant keeps the house, etc., ready for habitation whenever he pleases to go to it, and although he does not in fact reside in it one day in the year (*R. v. St. Pancras*, 2 Q. B. D. 588); or if he use the house partly for warehousing goods, and partly for a sale room (*Daniel v. Coulsting*, 7 M. & G. 122). It is not necessary in order to make a man an occupier, that he should actually sleep or take his meals in a house, or that his family should actually dwell in the house; it is sufficient if he hold the whole, and by himself or his family occupy a part (*R. v. Ditchet*, 9 B. & C. 185; and see *R. v. St. Nicholas, Rochester*, 5 B. & Ad. 219). A warehouse is occupied if the owner or tenant keep goods therein (*Daniel v. Coulsting*, 7 M. & G. 122); a counting-house, if he use it by himself or his clerks during business hours (*Downing v. Luckett*, 5 C. B. 40; *Piercy v. Maclean*, L. R. 5 C. P. 252). The occupation must be continuous, and if it be so, it is sufficient though bankruptcy occur during the qualifying period (*Mackay v. McGuire* (1891) 1 Q. B. 250).

A compulsory occupation in performance of a person's contract of service, as distinguished from a person's occupation as a reward therefor, is not sufficient to qualify for registration (*M'Clean v. Prichard*, 20 Q. B. D. 285). A person is not entitled to be enrolled a citizen of Oxford, or a burgess of Cambridge, by reason of his occupation of any rooms, chambers, or premises in any college or hall of either of those universities (M.C.A. s. 257, sub. 3).

Where a person succeeds to qualifying property by descent, marriage, marriage settlement, devise, or promotion to a benefice or office, the occupancy of the property by a predecessor in title is equivalent to the occupancy of the successor, and the successor is not

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required to prove his own occupancy before the succession (M.C.A. s. 33, sub. 1). And the qualifying property need not be throughout the twelve months the same property, or in the same parish (*ib.* sub. 2).

The qualifying property must be a house, warehouse, counting-house, shop, or other building. A stone and brick built building, with tiled roof, the lower story used as a cowhouse and stable, the upper story as a bedroom, accessible only by a staircase from the stable, is properly described as a house (*Nunn v. Denton*, 1 Lutw. 178; 7 M. & G. 66). A house may be occupied otherwise than by dwelling in it, and therefore a building occupied partly as a warehouse and sale-room, and partly as workshops, is a "house" (*Daniel v. Coulsting*, 1 Lutw. 230; 7 M. & G. 122). One of several rooms in a house, all occupied as counting-houses, the house having a wooden gate and door at the outer entrance, shut at night but open all day, and none of the occupiers having separate keys, is a "counting-house" (*Downing v. Luckett*, 2 Lutw. 33; 5 C. B. 40); and so also is a solicitor's office (*Re Creek*, 3 B. & S. 459). A house is still a house although part be let to a lodger, provided the portion so let is not structurally severed from the residue, or provided with a separate entrance, with exclusive dominion over that entrance (*R. v. Eye, Mayor of, Neobard's Case*, 9 A. & E. 670; and see *Evan's Case*, *ib.* 679).

The terms "house," "warehouse," etc., include any part of any house, where that part is separately occupied for the purposes of any trade, business, or profession; and any such part may, for the purpose of describing the qualification, be described as office, chambers, studio, or by any like term applicable to the case (M.C.A. s. 31 (a)). Where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part (*ib.* s. 31 (b)). Thus, each room in a cotton factory, four stories in height, and which was let off to different persons for cotton spinning, each exclusively occupying and having the key of the door of one room, in which room each had his own spinning machine, all of which machines were worked by one steam engine and main gearing provided by the landlord, has been held to be a building entitling the occupier to be regis-

tered (*Wright v. Stockport, Town Clerk of*, 5 M. & G. 33; and see *Greenway v. Batchelor*, 12 Q. B. D. 381). But apart from the above section, part of a house is not a house in point of law, unless there is an actual structural severance of the part from the rest of the building (*Cook v. Humber*, 11 C. B. N.S. 33; *Henrette v. Booth*, 15 C. B. N.S. 500).

Everything that can be called a building is not a building within the meaning of the M.C.A. The building must be in some degree adapted both to be used by man, either for residence or for the industry to which the statute relates, and also to have the degree of durability which is included in the idea of a building (*Powell v. Boraston*, 18 C. B. N.S. 180); it must have permanence and utility, and must contribute to the beneficial occupation of the land, and thus increase the real annual value of the land (*Morish v. Harris*, L. R. 1 C. P. 162).

The following have been held to be buildings:—A brick or stone built cowhouse or stable, with a tiled roof and a door with lock and key (*Whitmore v. Wenlock, Town Clerk of*, 1 Lutw. 10; 5 M. & G. 9); a wooden shed let into the ground, the roof formed of tarpaulin, used for placing in it barrows, shovels, etc. (*Watson v. Cotton*, 2 Lutw. 53; 5 C. B. 51; but see *Powell v. Boraston*, 18 C. B. N.S. 181); a similar structure with a thatched roof, used for storing potatoes (*Powell v. Farmer*, 18 C. B. N.S. 169); a stone building, with four walls, a roof, and a door, used for storing manure (*Morish v. Harris*, L. R. 1 C. P. 155); a similar building, with three sides, but open in front, used for milking cows and keeping a pig (*Gilham v. Harris*, *ib.* 158); a similar building useful as affording shade and shelter to cattle (*Berry v. Harris*, *ib.* 159); a lime-kiln (*Lyne Regis, B. & Aust.* 486).

The question of whether an erection is a building is one for the revising barrister, and unless he gives a description inconsistent with its being such, the court will not interfere (*Watson v. Cotton*, 5 C. B. 51; *Morish v. Harris*, L. R. 1 C. P. 162; and see *Ward v. Willesden, Overseers of*, 1 Lutw. 314; 2 C. B. 15).

The qualification continues although the house has been pulled down and is being rebuilt (*New Windsor, K. & O.* 153); or has been burnt down (*Lyne, Cozen's*

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Case, B. & Aust. 463); but not if the occupation is not resumed (*Lyme, Hicks' Case*, B. & Aust. 460).

The right qualification must be entered; if an elector occupying a "house" is described as occupying a "counting-house," his name must be expunged from the register (*R. v. Chipping Wycombe, Mayor of*, 44 L. J. Q. B. 82).

A man is not disqualified from being registered or voting as a burgess in respect of the occupation of any house, by reason only that during a part of the qualifying period, not exceeding four months in the whole, he has, by letting or otherwise, permitted such house to be occupied as a furnished dwelling-house by some other person, and during such occupation by another person has not resided in or within seven miles of the borough (48 & 49 Vict. c. 9, s. 2). The preamble recites that it is desirable to apply the above provision to voters at municipal elections, and as a woman is such a voter (M.C.A. s. 63), it would seem that the above provision applies to a woman, though it speaks only of "a man."

Residence.

The next essential is that the burgess shall have resided in the borough, or within seven miles thereof, for the requisite twelve months.

Residence denotes the place where a person eats, drinks, and sleeps, or where his family, or his servants, eat, drink, and sleep (*R. v. North Curry*, 4 B. & C. 959; *R. v. Hammond*, 17 Q. B. 781; *Allen v. Greensill*, 4 M. G. & S. 100). The question of whether there has been such a degree of inhabitation as to be, in substance and in common-sense, a residence, is a question of fact in each case (*R. v. Exeter, Mayor of, Westcombe's Case*, L. R. 4 Q. B. 110, and *cp. Dipstale's Case, ib.* 114).

In order to constitute residence, a person must possess at least a sleeping apartment, but an uninterrupted abiding at such dwelling is not requisite. Absence, no matter how long, if there be the liberty of returning at any time, and no abandonment of the intention to return whenever it may suit the person's pleasure or convenience so to do, will not prevent a constructive legal residence (*Powell v. Guest*, 18 C. B. N.S. 80; *Bond v. St. George, Hanover Square, Overseers of*, L. R. 6 C. P. 314; *Ward v. Maconochie*, per Lawrance, J., 7 Times L. R. 536; and see *R. v. Sargent*, 5 T. R. 468; *R. v.*

Richmond, Duke of, 6 T. R. 560; *R. v. Mitchell*, 10 East, 517).

But the residence must be real, substantial, and *bonâ fide*, and not colourable (*Whithorn v. Thomas*, 1 Lutw. 125; 7 M. & G. 1). And although there need not be an uninterrupted abiding in one place during the whole twelve months, yet there must be the power of returning at any time; and if a person by his own act, or by force of law, is debarred from returning whenever it suits his pleasure or convenience so to do, he cannot be said to have even a constructive residence. Thus, a person serving under articles to a solicitor in London cannot be said to reside in his father's house in Exeter, although the latter keeps a bedroom in his house for his son's exclusive benefit; for, being bound by his articles, he has neither the liberty nor the intention to return to the room whenever he likes (*Ford v. Drew*, 5 C. P. D. 59); and so, also, a person who has contracted to give his personal services daily at such a distance from the qualifying property as practically to prevent his returning thereto without a breach of the contract during the term of the service, cannot be said to reside there (*Beal v. Exeter, Town Clerk of*, 20 Q. B. D. 300). And where a person had left England for Australia, keeping a room in the borough to which he was always able and had the intention of returning, but was only physically resident in the borough during five weeks of the whole twelve months, it was held that "residence" in the statute was used in the ordinary sense, and that there was no sufficient residence to qualify him for election (*Ward v. Maconochie*, 7 Times L. R. 536).

A clergyman who has exchanged duties and residence with another for two months, and has thus given up the liberty of returning to his own house during that period, has not resided there during such two months (*Ford v. Pye*, L. R. 9 C. P. 269; and see *Durant v. Carter*, *ib.* 261). A person imprisoned more than seven miles from the borough is not, during the time he is in prison, *sui juris*, or at liberty to return to his house, and therefore does not reside there during that term (*Powell v. Guest*, 18 C. B. N.S. 72; *acc. Donnelly v. Graham*, 24 L. R. Ir. 127). A student occupying rooms in a college at a university, under regulations which prohibit his residing in or visiting his rooms during vacation without the express permission of the college authorities, cannot be said to reside in

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such rooms (*Tanner v. Carter*, 16 Q. B. D. 231). An officer in the army is subject to the Queen's will and pleasure, and is not *sui juris*, or at liberty to proceed at his own pleasure to the house he occupies during his leave of absence, and therefore does not reside there (*Ford v. Hart*, L. R. 9 C. P. 273; *acc. Ford v. Barnes*, 16 B. B. D. 254; *Spittall v. Brook*, 18 Q. B. D. 426; *Martin v. Hanrahan*, 22 L. R. Ir. 452; and *cf. R. v. Mitchell*, 10 East, 511). A sailor who has entered into an agreement under which he is compelled to serve on board ship, does not, while so serving, reside in his dwelling-house (*Duffy v. Chambers*, 26 L. R. Ir. 100).

The seven miles are to be measured in a straight line on a horizontal plane, and may be determined by the ordnance survey map (M.C.A. s. 231); as to the meaning of "ordnance map," see 52 & 53 Vict. c. 63, s. 25.

Rating.

The next essential is that the burgess shall have been rated in respect of the qualifying property to all poor rates made during the twelve months for the parish wherein the property is situate (M.C.A. s. 9, sub. 2 (*d*)).

The occupier of every rateable hereditament is to be entered in the rate book, whether the rate is collected from the owner or the occupier, and such occupier is deemed to be duly rated, and any occupier whose name has been omitted, is, notwithstanding such omission, and that no claim to be rated has been made by him, entitled to every qualification and franchise depending upon rating, in the same manner as if his name had not been so omitted (52 & 53 Vict. c. 41, s. 19). This provision is of general application, and is not confined to cases where an agreement has been made under s. 3 of 32 & 33 Vict. c. 41, or where an order has been made under s. 4 of the same Act (41 & 42 Vict. c. 26, s. 14).

If an occupier of any qualifying property claims to be rated to the poor rate in respect thereof, and pays or tenders to the overseers the full amount of the poor rate last made in respect of the property, the overseers shall put his name in the rate book in respect of that rate (M.C.A. s. 32, sub. 1). If they fail to do so, he shall nevertheless, for the purposes of the M.C.A., be deemed to be rated to that rate (*ib.* sub. 2; and see *Unwin v. McMullen* (1891) 1 Q. B. 694).

As to what constitutes occupation as a tenant, and not as a servant, so as to entitle the occupier to have his name entered in the rate book, see *Smith v. Seghill*,

Overseers of, L. R. 10 Q. B. 422; *Marsh v. Estcourt*, 24 Q. B. D. 147; *Unwin v. McMullen* (1891) 1 Q. B. 694.

When a person succeeds to qualifying property by descent, marriage, etc., the rating of the predecessor is equivalent to the rating of the successor, and need not be proved (M.C.A. s. 33, sub. 1).

A poor rate is not made until it is both signed by the overseers and allowed by the justices (*Jones v. Bubb*, L. R. 4 C. P. 468). It is deemed to be made on the day on which it is allowed by the justices, and if the justices sever in their allowance, then on the day of the last allowance (32 & 33 Vict. c. 41, s. 17).

The fifth and last essential is that the burgess shall have, on or before the 20th of July, paid all such rates as have become payable by him in respect of the qualifying property up to the then last preceding 5th of January.

Every payment of a rate by the occupier, notwithstanding the amount thereof, may be deducted from his rent, and every payment of a rate by the owner, whether he is himself rated instead of the occupier, or has agreed with the occupier or with the overseers to pay such rate, and notwithstanding any allowance or deduction which the overseers are empowered to make from the rate, shall be deemed a payment of the full rate by the occupier for the purpose of any qualification or franchise which, as regards rating, depends upon the payment of the poor rate (32 & 33 Vict. c. 41, s. 7).

The payment of an instalment of a rate payable by instalments shall, as respects any qualification or franchise depending upon the payment of the poor rate, be deemed a payment of such rate in respect of the period to which the instalment applies (32 & 33 Vict. c. 41, s. 15); and so also as regards the borough rate (M.C.A. s. 33, sub. 3), and county rates (51 & 52 Vict. c. 10, s. 2, sub. 2).

When by way of commission, or abatement, or deduction under 32 & 33 Vict. c. 41, an allowance or deduction shall actually be made, the same shall, for the purpose of every qualification or franchise depending upon rating, or upon payment of rates, be deemed to have been duly made in pursuance of every or any agreement, order, notice, or proceeding necessary for the validity thereof under that Act, and to be an allowance

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or deduction which the overseers are empowered to make; and no qualification or franchise depending upon rating or upon payment of rates shall be defeated by reason of such allowance or deduction not having been made in pursuance of an agreement in writing, order in writing, or notice in writing, or by reason of the want or insufficiency of any agreement, order, notice, or proceeding necessary for the validity thereof under that Act, or by reason of any informality or defect in the making thereof (42 & 43 Vict. c. 10, s. 2).

Payment of the entire rate by one or more of parties jointly rated is a payment by each of them; and a payment made on behalf of the ratepayer, if made by a person whom he has procured to do so by giving him value for it, as payment by his landlord in consideration of higher rent (*Wright v. Stockport, Town Clerk of*, 1 Lutw. 32; 5 M. & G. 33; *Moger v. Escott*, L. R. 7 C. P. 158), or in part remuneration for the ratepayer's services, is a good payment (*Hughes v. Chatham, Overseers of*, 5 M. & G. 54; 1 Lutw. 51). But excusal from payment on the ground of poverty is not equivalent to payment for the purposes of the qualification (*Abel v. Lee*, L. R. 6 C. P. 365); and a purely voluntary payment by third parties (*e.g.* by political persons for political purposes) does not entitle the persons whose rates are thus paid to be registered (*R. v. Bridgnorth, Mayor of*, 10 A. & E. 66).

A poor rate becomes due as soon as it has been published in the manner required by law (17 Geo. II. c. 3, s. 1; 7 Will. IV. & 1 Vict. c. 45, s. 2). A demand upon the ratepayer is not necessary to render the amount due.

But a poor rate does not become payable unless it is valid on the face of it (*Fox v. Davies*, 6 C. B. 11; 2 Lutw. 97; *R. v. Dyott*, L. R. 9 Q. B. 47). Thus, if the rate be not signed by two justices, it is not valid on its face, and does not, therefore, become payable at any time (*Fox v. Davies*, 6 C. B. 11; 2 Lutw. 97). And if there is anything left undone which the law requires to be done to create the liability to pay—thus, if an incoming tenant has not been called upon to pay a rate not paid by the outgoing tenant—that rate is not one which has become payable (*Flatcher v. Boodle*, 18 C. B. N.S. 152). A rate which does not, by its heading or by something in the body of the rate, show by what authority and for what

purposes it is made, is void (*R. v. Eastern Counties Railway Co.*, 5 E. & B. 974). Non-payment of an illegal rate (*R. v. New Windsor, Mayor of*, 7 Q. B. 908), or of a rate barred by the statute, does not disentitle a person to be registered as a burgess (*M'Grath v. Buchanan*, 26 L. R. Ir. 124); but the non-payment of a rate valid on its face will so disentitle (*Baker v. Locke*, 11 L. T. 567).

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The non-payment of a rate made under a local Act does not disqualify, although the town council have power to enforce it as a borough rate (*R. v. Lichfield, Mayor, etc. of*, 2 Q. B. 693).

If all the above essentials are fulfilled, the burgess is qualified, unless he (*inter alia*) is an alien. An alien is a person born out of the dominions of the Crown of England; out of the allegiance of the king (1 Black. Comm. 366). An alien to whom a certificate of naturalization has been granted by a secretary of state is entitled to all political and other rights, powers, and privileges, and is subject to all obligations to which a natural-born British subject is entitled or subject (33 & 34 Vict. c. 14, s. 7; and see further as to aliens, Election Agent, pp. 66, 343).

Disqualifications as town councillor.
Aliens.

And the burgess must not, within the twelve months, have received union or parochial relief, or other alms (M.C.A. s. 9, sub. 3 (b)).

Parochial relief or other alms.

A payment made by poor law guardians to a pauper by way of relief, not of wages, and measured by the wants of the applicant and not by the quantity of the work done by him, is "parochial relief or other alms" (*Margarill v. Whitehaven, Overseers of*, 16 Q. B. D. 242). A payment made out of the parish funds to or on account of those whom a person is by law bound to support, viz., his wife, his children under sixteen years old (4 & 5 Will. IV. c. 76, s. 56), the legitimate or illegitimate children of his wife born prior to his marriage with her until such children attain sixteen or their mother dies (*ib.* s. 57), is relief given to such person. The mother of an illegitimate child is, while unmarried or a widow, bound to maintain such child until the child attains sixteen, and therefore relief given to such child is relief given to her (*ib.* s. 71), and a married woman, having separate property, is subject to all such liability for the maintenance of her children and grandchildren as her husband is now by law subject to (45 & 46 Vict. c. 75,

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s. 21), and therefore relief given to any such child or grandchild is relief given to the mother or grandmother (as the case may be). But a person is not bound to support his parents, except on an order of justices, and so relief given to his parent does not disqualify the burgess (*R. v. Ireland*, L. R. 3 Q. B. 130; *Trotter v. Trevor*, 32 L. J. C. P. 59; *McDermott v. Chambers*, 22 L. R. Ir. 432).

The excusal from payment of poor rate on the ground of poverty, is not "parochial relief" within the above statute (*Mashiter v. Dunn*, 6 C. B. 30); nor vaccination, nor the surgical or medical assistance incident to vaccination performed or rendered by a public vaccinator (30 & 31 Vict. c. 84, s. 26); nor the remission of school fees on account of the poverty of the parent (33 & 34 Vict. c. 75, s. 17); nor the payment by the guardians of the school fees of any child whose parent, though not a pauper, is unable by reason of poverty to pay such fees (39 & 40 Vict. c. 79, s. 10); nor the receipt of medical or surgical assistance from the trustees of municipal charities; nor the removal by order of a justice to a hospital or place for the reception of the sick at the cost of any local authority; nor the admission of the voter's child to any public or endowed school (M.C.A. s. 33, sub. 4; 51 & 52 Vict. c. 10, s. 2, sub. 2); nor the admission of any person suffering from infectious disease into any hospital provided by the managers of the Metropolitan Asylum District (54 & 55 Vict. c. 76, s. 80, sub. 4), or by a county council under the Isolation Hospitals Act, 1893 (56 & 57 Vict. c. 68, s. 23); nor the receipt of medical or surgical assistance at the expense of any poor rate (48 & 49 Vict. c. 46, s. 2; and see *Honeybourne v. Hambridge*, 18 Q. B. D. 418).

The word "parochial" applies to "alms" as well as to relief, and the provision consequently applies only to such alms as are parochial (*R. v. Lichfield, Mayor of*, 2 Q. B. 693; and see *R. v. Halesworth*, 3 B. & Ad. 717); and therefore it would seem that it does not include the receipt of money distributed annually from the income of a public charitable institution established by an individual for the poor of the borough not receiving relief from any parish therein (*ib.*; but see *Harrison v. Carter*, 2 C. P. D. 26; *Smith v. Hall*, 15 Scott, N.S. 485; *Baker v. Monmouth, Town Clerk of*, 34 W. R. 64; *Edwards v. Lloyd*, 20 Q. B. D. 302; *Dix v. Kent*,

7 Times L. R. 46, as to the disqualification of parliamentary voters by receipt of alms).

Lastly, the burgess must not be disentitled to be enrolled under any Act of Parliament. He therefore must not have been convicted on indictment, or reported guilty of any corrupt practice at any parliamentary, municipal, local government or school board election (see *post*, p. 60), nor have been convicted of any illegal practice at any similar election (see *post*, p. 62), nor have been convicted of treason or felony and sentenced to death or penal servitude, or any term of imprisonment with hard labour exceeding twelve months, unless he has suffered the punishment to which he has been sentenced or any substituted punishment (33 & 34 Vict. c. 23, s. 2).

The enactment relating to the disqualification of a town councillor is M.C.A. s. 12, as follows :—

(1.) A person shall be disqualified for being elected and for being a councillor, if and while he—

(a.) Is an elective auditor or a revising assessor, or holds any office or place of profit, other than that of mayor or sheriff, in the gift or disposal of the council ; or

(b.) Is in holy orders, or the regular minister of a dissenting congregation ; or

(c.) Has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the council :

(2.) But a person shall not be so disqualified, or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in—

(a.) Any lease, sale, or purchase of land, or any agreement for the same ; or

(b.) Any agreement for the loan of money, or any security for the payment of money only ; or

(c.) Any newspaper in which any advertisement relating to the affairs of the borough or council is inserted ; or

(d.) Any company which contracts with the council for lighting or supplying with water or insuring against fire any part of the borough ; or

(e.) Any railway company, or any company incorporated by Act of Parliament or Royal Charter, or under the Companies Act, 1862.

An elective auditor is elected by virtue of M.C.A.

Elective
auditor, and
revising
assessor.

CHAP. II. s. 25, sub. 1. The office of revising assessor is abolished by 51 & 52 Vict. c. 10, s. 1.

Office or place of profit. Several of the offices specified *ante*, p. 35, are offices or places of profit in the gift or disposal of the town council and which consequently disqualify the holder for being elected or being a town councillor. The disqualification ceases as soon as the office ceases (M.C.A. s. 12, sub. 1). See further as to offices or places of profit, *post*, pp. 52, 55.

Clergy. A person shall be disqualified for being elected and for being a town councillor if and while he is in holy orders, or the regular minister of a dissenting congregation (M.C.A. s. 12, sub. 1 (*b*)). A clerk in holy orders and a regular minister of a dissenting congregation are thus under a disqualification from which they are exempt as county councillors (L.G.A. 1888, s. 2, sub. 2 (*a*)), and as parish councillors (see Election of Parish Councils, p. 70). Such a person is thus disqualified for election as a guardian under the town councillors qualification, but he is not disqualified altogether (see *post*, p. 51).

Share or interest in any contract or employment. A person shall be disqualified for being elected and for being a town councillor if and while he has, directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the council (M.C.A. s. 12, sub. 1 (*c*)).

So far as this enactment disqualifies a person who has "directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the council," this enactment corresponds with the provision in the L.G.A. s. 46, sub. 1 (*e*), which disqualifies any person, whatever his qualification, for being elected or being a guardian who "is concerned in any bargain or contract entered into with the board of guardians, or participates in the profit of any such bargain or contract, or of any work done under the authority of the board," and the decisions cited *post*, p. 56, in connection with that provision apply equally to this enactment. So far also as this enactment exempts certain contracts and employments from the disqualification thereby enacted, it is very similar to the corresponding exemption contained in L.G.A. s. 46, sub. 2, which is fully discussed *post*, p. 55.

The permitted contracts or employments which do not disqualify a person for being elected, or for being

a town councillor (M.C.A. s. 12, sub. 2, *ante*, p. 47), are similar to those enacted in the L.G.A. s. 46, sub. 2, with regard to all persons seeking to be elected, or to act, as guardians, and this branch of the subject is fully dealt with, *post*, p. 59.

Any member of the town council who has been convicted of the misdemeanour named in M.C.A. s. 124, sub. 6, viz., who has authorised or directed any payment or application of corporate property forbidden by M.C.A. s. 124, or who has assented to, or concurred or participated in, any affirmative vote or proceeding relating thereto, or who has signed or sealed in his individual capacity, or affixed the corporate seal to any instrument by that section declared void, is disqualified for being elected or for being a councillor (M.C.A. s. 124, sub. 6). It will be observed that there is no disqualification until conviction.

Misapplication
of corporate
property.

The following persons are also disqualified for being elected or for being town councillors :—

An undischarged bankrupt (M.C.A. s. 39, subs. 1, 3, and see further hereon, *post*, p. 54).

Bankrupts,
and com-
pounding
debtors.

A debtor who compounds by deed with his creditors, and has not paid his debts in full, or who makes an arrangement or composition with his creditors under the Bankruptcy Act, 1883, by deed or otherwise, and has not paid his debts in full or obtained his certificate of discharge (M.C.A. s. 39, sub-s. 1, 3, and see further hereon, *post*, p. 54).

Persons convicted of corrupt or illegal practices, as to which, see *post*, pp. 60, 62.

Corrupt and
illegal
practices.

Persons convicted of treason or felony, as to which, see *post*, p. 53.

Treason or
felony.

Any commissioned officer in the army on full pay is incapable of being nominated or elected to, or of holding, any office in any municipal corporation (44 & 45 Vict. c. 58, s. 146). But officers of the militia, yeomanry, or volunteers, are not so disqualified (44 & 45 Vict. c. 58, s. 181, sub. 5), and are therefore eligible as town councillors.

Military
officers.

The following persons are exempt from serving the office of town councillor :—

Exceptions
from service
as town
councillors.

Any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or any other permanent infirmity of body (M.C.A. s. 34, sub. 3 (a)).

Any person who, being above the age of sixty-five

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—

years, claims exemption within five days after notice of his election (M.G.A. s. 34, sub. 3 (b)).

Any person who, having within five years before the day of his election served the office to which he has been elected, claims exemption within five days after notice of his election (M.C.A. s. 34, sub. 3 (b)).

Any person who, having within five years before the day of his election, paid the fine for non-acceptance of office, claims exemption within five days after notice of his election (M.C.A. s. 34, sub. 3 (b)).

Any person who pays the fine for non-acceptance of the office to which he has been elected (M.C.A. s. 34, sub. 1).

Any person enabled by law to make an affirmation instead of taking an oath, and who refuses on conscientious grounds to take any oath or make any declaration required by the M.C.A., or to take on himself the duties of the office to which he has been elected (M.C.A. s. 36, sub. 3).

OTHER
QUALIFIED
PERSONS.

—

Having now considered the qualifications of a guardian as enacted by the L.G.A., there are certain persons whose qualifications must also be considered before proceeding to the consideration of the disqualifications attaching to a person who would otherwise be eligible as a guardian.

Blind persons. A blind person is eligible to parliament (Election Agent, p. 65), and as a county councillor (Election of County Councils, p. 24) and town councillor (*ante*, p. 35), though exempt from serving either of the two latter offices (M.C.A. s. 34, sub. 3 (a); L.G.A. 1888, s. 2). There is nothing to disqualify a blind person from being elected to or serving the office of guardian, and if therefore he is a parochial elector, or possesses the residential qualification, he is eligible, though exempt from service (G. O. r. 26, par. 1; M.C.A. s. 34, sub. 3).

Civil servants. Civil servants are eligible as guardians, though some of them are exempt from service (see *post*, p. 64), and may be prohibited by the terms of their appointment from seeking election. By a minute dated the 14th of August, 1894, the Lords of the Treasury have laid down that an established civil servant should be excluded from becoming a candidate for election to a district council, inasmuch as the meetings of a district council may be held during hours required for official duty, but that the case is different as regards parish councils, and

that in any case in which the head of the department is satisfied that attendance on a parish council will not interfere with the performance by a civil servant of his official duties, he should be at liberty to become a candidate for election to the council.

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Priests and deacons of the Church of England and ministers of the Church of Scotland are ineligible as members of parliament (see Election Agent, p. 80); and a person in holy orders or the regular minister of a dissenting congregation is ineligible as a town councillor (M.C.A. s. 12, sub. 1 (*b*)). But no such disqualifications are enacted as regards guardians, and the clergy and dissenting ministers, if parochial electors or possessing the residential qualification, are therefore eligible.

Officers and members of county councils, district councils, parish councils, and town councils are not ineligible as guardians.

Officers and members of other local authorities.

Peers are ineligible to parliament (Election Agent, p. 92), but peers owning property in the county are eligible as county councillors (Election of County Councils, p. 18). The L.G.A. is silent as to peers, and therefore a peer who is a parochial elector, or who possesses the residential qualification (see *ante*, p. 32), is eligible as a guardian. But a non-resident peer, who is not a parochial elector, although an owner of property in the parish, is ineligible.

Peers.

A person ceasing to hold the office of guardian shall, unless disqualified to hold the office, be re-eligible (G.O. r. 26, par. 1; M.C.A. s. 37). This provision is not confined to a retiring guardian as is the corresponding provision relating to a parish councillor (L.G.A. s. 47, sub. 2).

RE-ELIGIBILITY.

The disqualifications specially attaching to a town councillor, and thus to a person who seeks election as a guardian under the town councillors' qualification, having already been considered (*ante*, p. 47), we now come to the consideration of disqualifications attaching to *any* person who seeks to be elected or to act as a guardian, and which attach under whatever qualification the person may seek election or claim to act.

DISQUALIFICATIONS UNDER THE LOCAL GOVERNMENT ACT FOR ELECTION OR ACTING.

A person shall be disqualified for being elected, or being a member or chairman of a board of guardians if he—

Statutory enactment.

(*a.*) is an infant or an alien; or

(*b.*) has within twelve months before his election, or

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since his election, received union or parochial relief (see *post*, p. 53) ; or

- (c.) has, within five years before his election or since his election, been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, been adjudged bankrupt, or made a composition or arrangement with his creditors (see *post*, p. 53) ; or
- (d.) holds any paid office under the board of guardians (see *post*, p. 55) ; or
- (e.) is concerned in any bargain or contract entered into with the board, or participates in the profit of any such bargain or contract or of any work done under the authority of the board (L.G.A. s. 46, sub. 1 ; see *post*, p. 55).

This provision is in the nature of a penal enactment, and therefore to be strictly construed, and no one is to be held disqualified who is not clearly within the words of the section (see *Aslatt v. Southampton, Corporation of*, 16 Ch. D. 143). It will be observed that these disqualifications apply not only to a candidate for election, but to a guardian after election, and that thus if any of these disqualifications attaches to a guardian at any time while in office, he instantly becomes incapable of acting, and should at once cease to act or he will incur the penalty for acting when disqualified (see *post*, p. 149). Election includes both the nomination and the poll (L.G.A. s. 75, sub. 2), and therefore a candidate must not, it would seem, be disqualified either at the nomination or the poll, though it is no doubt arguable that as a person is not "elected" until his election has been completed, he is eligible for election if, although disqualified when nominated, he is qualified when elected ; in other words, that it is sufficient if he rids himself of his disqualification between the date of his nomination and the date of his election. But this point has not yet been raised or decided, and the truer view appears to be that a person disqualified for election is also disqualified for nomination.

We will now consider the above-named disqualifications in their order.

(a.) As to when an infant attains full age, see *ante*, CHAP. II. p. 36, and as to who is an alien, see *ante*, p. 45.

(b.) The twelve months are calendar months (52 & 53 ^{Infant or alien.} Vict. c. 63, s. 3) and must be reckoned consecutively; and as "election" includes nomination (L.G.A. s. 75, ^{Union or parochial relief.} sub. 2), the twelve months must be reckoned from the person's nomination, and not merely from the time he goes to the poll or is declared elected. Thus a person nominated on the 5th of December, 1894, must not have received union or parochial relief at any time between that date and 5th of December, 1893; as to what is such relief, see *ante*, p. 45. It will be observed that the words "or other alms," which are often to be found in similar disqualifying enactments (*e.g.* M.C.A. s. 9, *ante*, p. 45), are omitted from this provision, and therefore an occupant of an almshouse, if possessing the residential qualification, is not ineligible. Relief given by way of loan does not perhaps disqualify (see *Oldham*, 1 O'M. & H. 161).

(c.) It will be noticed that under this provision there is no disqualification unless and until there is both a conviction, and a sentence of imprisonment with hard labour without the option of a fine, or a sentence of some greater punishment. A crime is a public wrong, the subject of indictment, and is either a misdemeanor or a felony. An offence punishable on summary conviction may be a crime within this provision (*Conybeare v. London School Board* (1891) 1 Q. B. 118). Penal servitude is a greater punishment than imprisonment with hard labour. The five years must be reckoned from the person's nomination, and not merely from the time he goes to the poll or is declared elected (see *ante*, p. 52). ^{Conviction and imprisonment for crime.}

The discharge out of custody in the case of a free pardon, or the performance of the condition in the case of a conditional pardon, or the endurance of the punishment to which the felon has been adjudged, has the effect of a pardon under the great seal (7 & 8 Geo. IV. c. 28, s. 13; 9 Geo. IV. c. 32, s. 3; *Hay v. London, Justices of Tower Division of*, 24 Q. B. D. 561).

Where any offender, convicted of any felony not punishable with death, has endured the punishment to which he has been adjudged, such punishment has the like effect and consequences as a pardon under the great seal as to the felony whereof the offender was so convicted (9 Geo. IV. c. 32, s. 3); but a person transported

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to a penal colony, and who escapes therefrom before his sentence has expired, cannot be said to have "endured the punishment to which he has been adjudged," for transportation is being sent out of the country to some place, and there to remain, to endure and suffer the sentence of transportation (*Tipperary*, 3 O'M. & H. 43, 44).

Bankruptcy,
composition,
or arrange-
ment with
creditors.

The bankruptcy must be an adjudication in bankruptcy under 46 & 47 Vict. c. 52, s. 20. A receiving order under *ib.* s. 5 is not sufficient to disqualify. The composition or arrangement with creditors may be one effected outside the Bankruptcy Acts (see per Hawkins, J., in *R. v. Cooban*, 18 Q. B. D. 269, 274), as well as one effected under its provisions, but whichever it be, it must have become operative and binding; a mere offer, or acceptance of an offer, of a composition or of a proposal for an arrangement will not disqualify. A person disqualified "since his election" continues so disqualified for five years (see L.G.A. s. 46, sub. 1 (c); and see 53 & 54 Vict. c. 71, s. 9), or until the disqualification ceases under the provision next to be noticed.

Cesser of dis-
qualification.

Where a person is disqualified by being adjudged bankrupt, the disqualification shall cease when the adjudication is annulled, or when he obtains his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part (L.G.A. s. 46, sub. 4). As to the circumstances under which a bankruptcy may be annulled, see 46 & 47 Vict. c. 52, ss. 23, 35; and as to those under which the court will grant a certificate that the bankruptcy was caused by misfortune without misconduct, see *ib.* s. 32, sub. 2; *Re Burgess, ex parte Burgess*, 35 W. R. 702; *Re Lord Colin Campbell*, 20 Q. B. D. 816.

The disqualification by composition or arrangement continues for five years from the time the composition, etc., has become effective (see L.G.A. s. 46, sub. 1) or until payment of the debts in full (*ib.* sub. 4), whichever first happens (*R. v. Welchpool, Mayor, etc. of*, 35 L. T. 594; *ex parte Atherton*, 2 Times L. R. 631). A person who compounds with his creditors does not pay his debts in full (*Hardwick v. Brown*, L. R. 8 C. P. 406; and see *Fletcher v. Saunders*, 49 J. P. 424). An assignment by deed of the whole of a debtor's property to a trustee for the benefit of those creditors who shall sign the deed with a discharge to the debtor from all debts due from

the signing creditors, but which deed names no sum as the composition to be paid to the creditors, is not a composition with creditors within the meaning of the L.G.A. (*R. v. Cooban*, 18 Q. B. D. 269).

These provisions of the L.G.A. seem to supersede the similar disqualifications on adjudication contained in the Bankruptcy Act, 1883 (46 & 47 Vict. c. 52, s. 32), and which have been held not to be retrospective (*re Pulborough School Board* (1894) 1 Q. B. 725).

(d.) This is taken from P.H.A. sch. II. r. 64. The paid office must be held under the board of guardians, and therefore a paid office held under an independent body, such as a joint committee, will not disqualify, although some members of the independent body be also members of the board, and although the expenses of the independent authority be wholly or partly paid by or by order of the board (see *R. v. Rawlins*, 25 Q. B. D. 382). Paid office
under board.

The office must be a paid office ; an office to which no salary or emolument is attached is not a paid office (*R. v. Barford*, Rawlinson, 92). But if the office is one capable of producing a profit, or out of which the holder may reasonably be expected to make a profit, the holder is the holder of a paid office, and the disqualification is not avoided by his allowing another to receive the salary, profit, or emolument, instead of receiving same himself (see *Delane v. Hillcoat*, 9 B. & C. 310 ; and see *Todd v. Robinson*, 14 Q. B. D. 739). Nor can, it is submitted, the disqualification be avoided by the holder of an office to which a salary or pecuniary emolument is ordinarily attached, offering to waive the remuneration, and to act gratuitously so long as he also holds the office of guardian.

A payment to a medical practitioner under the Notification of Infectious Diseases Act, 1889, does not disqualify for the office of guardian (52 & 53 Vict. c. 72, s. 11).

(e.) This is a re-enactment of P.H.A. sch. II. r. 64 ; and its intention is that a guardian shall be free from any interest in the acts of the board of guardians, and from bias of every sort. Bargain or
contract with
board.

It will be observed that the disqualification is based on being "concerned" in any bargain or contract, etc., and that this term is apparently narrower than the phrase "concerned or interested" to be found in some similar enactments (*e.g.* P.H.A. s. 193). For it has been

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held that a shareholder in a company having a contract with a local authority is "interested" in such contract, though the court declined to say whether he was also "concerned" in such contract; and, semble, although "interested" he is not "concerned" in such a contract (*Todd v. Robinson*, 14 Q. B. D. 739). The distinction has not been observed in all the decided cases, but has to be borne in mind in considering the facts and circumstances of any alleged case of disqualification.

A person who holds a continuing contract for the supply of goods to a local authority (*Nicholson v. Fields*, 7 H. & N. 810; *Fletcher v. Hudson*, 7 Q. B. D. 611); a sub-contractor who is employed to do a portion of the work which another has entered into a contract to do (*Nutton v. Wilson*, 22 Q. B. D. 744); and a person who is employed to make preparations to enable a contractor to execute work which he has contracted with a corporation to do (*Tomkins v. Foliffe*, 51 J. P. 247), have each been held to be "concerned" in such contracts. A surveyor who prepares bills of quantities for which he is paid by the contractor to the corporation (*Whitley v. Barly*, 21 Q. B. D. 154), and a person who lets rooms to a local authority (*Burgess v. Clark*, 14 Q. B. D. 735), are "concerned or interested" in the contract with the corporation or local authority. A person who lends money to a contractor to enable the latter to carry out his contract, and who takes an assignment of such contract by way of security for his loan, has been held to be "interested" in such contractor's contract (*Hunnings v. Williamson*, 11 Q. B. D. 533).

What is a
"bargain or
contract."

The question of what is a "bargain or contract" within an enactment such as that now under consideration has been the subject of many decisions.

A continuing bargain or contract for the supply of goods or for work to be done, to or for the board of guardians, is within the enactment (*Woolley v. Kay*, 1 H. & N. 307; *Nicholson v. Fields*, 7 H. & N. 810; *Lewis v. Carr*, 1 Ex. D. 487; *Fletcher v. Hudson*, 7 Q. B. D. 611; and see *Towsey v. White*, 5 B. & C. 125); and the contract, if a continuing one, is not the less a contract because the amount sold under it is small (*Nell v. Longbottom* (1894) 1 Q. B. 767). But a trifling bargain and isolated transaction, such as the purchase of a single article in a shop, though the price be not paid (*Woolley v. Kay*, 1 H. & N. 307), or be paid at the time

(*Nicholson v. Fields*, 7 H. & N. 810; and see *Lewis v. Carr*, 1 Ex. D. 487), has been held not to disqualify. And where the goods supplied are such as the local authority are bound to supply to all comers, such as gas or water, and the supply is of the ordinary kind, and at the same price, and upon the same conditions as apply in the case of all applicants, it is submitted that no disqualification arises, and that such a contract is not within the mischief intended to be aimed at.

The bargain or contract must be continuing; where it has been fully performed, and there is nothing for the contractor to do but to receive payment, no disqualification arises (*Lewis v. Carr*, 1 Ex. D. 484; *Woolley v. Kay*, 1 H. & N. 307; and see *Royse v. Birley*, L. R. 4 C. P. 296). If therefore a continuing contract be determined before the candidate is nominated for election, he is not disqualified; and if it be determined after election, the disqualification ceases with the determination of the contract.

But a contractor who has completely executed works for the board, and has no further concern in the contract, except to receive retention moneys, held over under the terms of the contract for a stated period, during which period he is liable to make good the works executed under the contract is, it is submitted, disqualified, as the contract cannot, until the expiration of the stated period, be considered at an end, and meanwhile the contractor has a strong interest in seeing that no captious objections are taken to the work he has executed, and that the retention moneys are restored to him intact.

If before election a candidate assigns his interest in a contract with the board, although the assignment has not been formally completed, he is no longer concerned in the contract within the meaning of the enactment (see *Dartmouth, B. & Arn.* 460; *Maidstone, Rog.* 1204). But if, though assigning his interest, he remains liable on the contract, and on bonds given to secure its due performance, he is interested, and therefore concerned, in the contract, and is disqualified (see *Cox v. Ambrose*, 60 L. J. Q. B. 114). And if a councillor lends money to a contractor to enable the latter to carry out his contract, and takes an assignment of that contract by way of security for his loan, he is disqualified as having an interest, and therefore a concern, in the contract (see *Hunnings v. Williamson*, 11 Q. B. D. 533).

Contract
must be
continuing.

Assignment of
contract.

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Sub-contractor, A sub-contractor employed to do a portion of the work contracted for (*Nutton v. Wilson*, 22 Q. B. D. 744), or to make preparations for the execution of such work (*Tomkins v. Jolliffe* (51 J. P. 247), or who lets a horse and cart to the contractor to be used in executing the work contracted for (*Towsey v. White*, 5 B. & C. 125), is within the section; but not a sub-vendor who merely sells goods which are used in carrying out the contract (*Le Feuvre v. Lankester*, 3 E. & B. 530).
- Trustee. If the contractor is a mere trustee for the guardian, the latter has an interest, and is therefore concerned, in the contract, and is disqualified (see *Simpson v. Ready*, 12 M. & W. 736). But if the guardian is a mere trustee for some other person who is interested in the contract, the guardian is probably not within the enactment.
- Contract with independent body. The bargain or contract must be entered into with the board of guardians; a bargain or contract entered into with an independent body, such as a joint committee, is not within the provision, even though some members of the board be also members of such independent body. But a contract with a pre-existing body whose powers have been transferred to the board, may be a contract within the enactment (see *Le Feuvre v. Lankester*, 3 E. & B. 530).
- Secret contract. A contract entered into without the knowledge of the guardian, or against his orders, and of which he takes no benefit, does not, it seems, disqualify (*Miles v. McIlwraith*, 8 App. Cas. 120). But a contract entered into with the partner of the guardian, within the scope of the partner's authority and for the benefit of both partners, disqualifies, even though the guardian has no personal knowledge of the contract (*Davies v. Harvey*, L. R. 9 Q. B. 433).
- Invalid contract. The contract may disqualify, even though the guardian cannot sue on the contract for want of due execution (see *R. v. Francis*, 18 Q. B. 526; and see *Mellis v. Shirley Local Board*, 16 Q. B. D. 446, where it was decided that a contract in which an officer of a sanitary authority is "concerned or interested" is illegal and void under P.H.A. s. 193, and cannot be enforced).
- Participation in profit. The disqualification arising from a participation in profit renders the partner of a contractor with the board ineligible as a guardian. "Profit" is the excess of ordinary receipts over expenses properly chargeable to revenue account (see *Mills v. Northern Railway of Buenos*

Ayres Co., L. R. 5 Ch. 621, 631); the amount got out of the bargain, contract or work, less the cost of getting it; the excess of earnings over expenses (see *Mersey Docks and Harbour Board v. Lucas*, 51 L. J. Q. B. 114, 116).

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It is further enacted by way of proviso on the previous enactment (*ante*, p. 51), that a person shall not be disqualified for being elected or being a member or chairman of board of guardians by reason of being interested—

Contracts which do not disqualify.

(a.) in the sale or lease of any lands or in any loan of money to the board; or

(b.) in any newspaper in which any advertisement relating to the affairs of the board is inserted; or

(c.) in any contract with the board as a shareholder in any joint stock company; but he shall not vote at any meeting of the board on any question in which such company are interested, except that in the case of a water company, or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the county council (L.G.A. s. 46, sub. 2).

(a.) This enactment is taken from P.H.A. sch. II. r. 64. The words "sale or lease of any lands" include a sale or lease by the board as well as one to the board (see *R. v. Gaskarth*, 5 Q. B. D. 321); but it will be observed that the exception in connection with a loan of money is confined to a loan to the board, and that a loan by the board to the candidate, guardian, or chairman is not within this exception, and disqualifies as being a contract with the board (L.G.A. s. 46, sub. 1 (e), *ante*, p. 52). "Land" includes messuages, tenements, and hereditaments, houses, and buildings of any tenure (52 & 53 Vict. c. 63, s. 3), and the above enactment applies to a letting for one day as well as to a longer lease (*Nell v. Longbottom* (1894) 1 Q. B. 767, 771).

Sale, lease, loan, bridge, or road materials.

(b.) This is a re-enactment of 48 & 49 Vict. c. 53, s. 4, now repealed by L.G.A. s. 89.

(c.) This is a re-enactment of P.H.A. sch. II. r. 64, and is a remedial provision to prevent a guardian from falling within the disqualification contained in L.G.A. s. 46, sub. 1 (e), *ante*, p. 52 (*Todd v. Robinson*, 14 Q. B. D. 739, 745).

Newspaper advertisement. Shareholder in company.

CHAP. II.

The prohibition against the shareholder-guardian voting on any question in which the company are interested is similar to, but narrower than, that which prevents a member of a county or town council from voting or taking part in the discussion of any matter before the council, or a committee, in which he has, directly or indirectly, by himself or his partner, any pecuniary interest (M.C.A. s. 22, sub. 3 ; L.G.A. 1888, s. 75). The dispensation from the prohibition which a county council may grant is limited to the case specified in the sub-section, and must be applied for in each particular case. What may be the true construction of the words "other company established for the carrying on of works of a like public nature," it is difficult to say. Had the word "like" been omitted, the phrase would include gas, electric, and possibly tramway companies, all of whom are established to carry on works of a public nature ; but the word "like" restricts the class of companies to such as are of a like public nature to water companies.

OTHER DIS-
QUALIFICA-
TIONS.

In addition to the disqualifications thus enacted by the L.G.A., there are others arising under other statutes or at common law.

Corrupt
practices.

A person convicted on indictment, or reported guilty by an election court, within seven years last past, of any corrupt practice at a parliamentary election is disqualified to be elected or to be a chairman or guardian (C.I.P.P.A. s. 6, sub. 3 ; ss. 4, 64). The report must distinctly find the person guilty of the offence ; a mere statement of facts from which guilt may be inferred is insufficient (*Grant v. Pagham, Overseers of*, 3 C. P. D. 80). This disqualification is unlimited as to the area over which it extends, and such a person is therefore disqualified during the above period throughout England and Wales.

A person convicted, or reported guilty by an election court, within seven years last past, of any corrupt practice at a municipal election is similarly disqualified (M.E.C.I.P.A. s. 2, sub. 2 ; s. 3, sub. 1). This disqualification is also unlimited as to the area over which it extends.

The disqualification for corrupt practices at an election for a county council (L.G.A. 1888, ss. 2, 75), or for a board of guardians, district council, or parish council (L.G.A. s. 48, sub. 3), is the same as at a municipal elec-

tion. A person reported, within three years last past, by an election court, guilty by his agents of any corrupt practice at any of the above elections held in the union for which he stands as candidate, is similarly disqualified (L.G.A. 1888, ss. 2, 75 ; M.E.C.I.P.A. s. 3, sub. 2 ; s. 36, sub. 1 (b) ; G.O. r. 27).

A person convicted, or reported guilty by an election court, within seven years last past, of any corrupt practice, at any of the following elections, viz. : member of a local board, member of improvement commissioners, poor law guardian, member of school board, is disqualified for being elected or for being a guardian (L.G.A. s. 48, sub. 3 ; M.E.C.I.P.A. s. 36). A person reported, within three years last past, by an election court, guilty by his agents of any corrupt practice at any of the above elections held in the district for which he stands as candidate, is similarly disqualified (*ib.*).

Any person convicted of an offence against the Public Bodies Corrupt Practices Act, 1889, is, at the discretion of the court before which he is convicted, in the event of a second conviction for a like offence, liable to be adjudged to be for ever incapable of holding any public office (52 & 53 Vict. c. 69, ss. 1, 2). The expression "public body" means, *inter alia*, any council of a county or county of a city or town, any council of a municipal borough, and any body which has power to act under and for the purposes of any Act relating to local government, or the public health, or to poor law (*ib.* s. 7).

A person who is deaf and dumb is ineligible to parliament (see Election Agent, p. 65) ; and is probably also ineligible as a guardian. If elected, he is exempt from service (G.O. r. 26, par. 1 ; M.C.A. s. 34, sub. 3). Deaf and dumb person.

It has been said that an habitual drunkard is not ineligible as a town councillor, and that, if elected, he cannot be removed from his office of town councillor (*Alexander v. Jenkins* (1892) 1 Q. B. 797), and if so, such a person would doubtless be held to be eligible and irremovable as a guardian. But this case, so far as it decides this point, is in conflict with a previous decision not cited in the argument or judgments (*R. v. Taylor*, 3 Salk. 231), and it is difficult to see how an habitual drunkard can be deemed to be a "fit" person, or capable of acting as a town councillor (M.C.A. s. 11, sub. 1), or of executing an office of trust and honour such as that of guardian ; and, on the contrary, it is submitted that Drunkard.

Chap. II.

he does not differ in principle from a lunatic and is ineligible.

Illegal
practices.

A person convicted of an illegal practice at a parliamentary election is incapable, during five years from the date of his conviction, of being registered as an elector, or voting at any election for a public office held for or within the county or borough in which the illegal practice was committed (C.I.P.P.A. ss. 10, 64). Such a person is therefore incapable of being registered as a parochial elector, and is thus, during a like period, disqualified for election as a guardian at any election held within such county unless he possesses the residential qualification.

A person convicted of an illegal practice at a municipal election, or at an election for a member of a county council, local board, improvement commissioners, poor law guardian, school board, district council, or parish council, is incapable, during five years from his conviction, of being registered as an elector, or voting at any election for a public office, held for or within the borough, county, district, union, parish or ward, in which the illegal practice was committed (M.E.C.I.P.A. ss. 7, 36, 34; L.G.A. 1888, ss. 2, 75; L.G.A. s. 48, sub. 3); and is therefore incapable of being elected a guardian during a like period at any election held for or within such parish (*ib.*), unless he possesses the residential qualification.

Any candidate at any of the above elections whose election has been avoided for extensive illegal practices or illegal payments, etc., at such election, shall not, during the period for which he was elected to serve, or for which, if elected, he might have served, be capable of being elected to or holding any corporate office in the said borough, county, district, union, parish or ward (M.E.C.I.P.A. ss. 18, 36, sub. 1). "Corporate office" means any of the following offices, viz.: mayor, alderman, councillor and elective auditor in a municipal borough (M.C.A. s. 7, sub. 1; M.E.C.I.P.A. s. 36, sub. 1); chairman, vice-chairman, alderman and councillor of a county council (L.G.A. 1888, s. 75); member of a local board, improvement commissioners, or school board, and guardian of the poor (M.E.C.I.P.A. s. 36, sub. 1 (*b*)); and member of a district or parish council (L.G.A. s. 48, sub. 3).

An idiot, being incapable of taking care of himself or his affairs, is incapable of attending to the affairs of

others, and is ineligible as a guardian. If elected, he is exempt from service (G.O. r. 26, par. 1; M.C.A. s. 34, sub. 3). An idiot or natural fool is one that hath no understanding from his nativity, and who, therefore, is by law presumed never likely to attain any (1 Black. Comm. 303).

A lunatic is probably eligible during a lucid interval, for his lunacy may never return (see Election Agent, p. 64). But a person sane at the time of election, who afterwards becomes lunatic, is probably removable from his office of guardian (see *ib.*).

A lunatic is one who hath had understanding, but by disease, grief, or other accident, hath lost the use of his reason (1 Black. Comm. 304). He is a person that hath lucid intervals (*ib.*); one who is sometimes of good and sound memory and understanding, and sometimes not (Heyw. Co. 260).

A man cannot be a judge in his own cause, and therefore a returning officer cannot return himself (see *R. v. Owens*, 2 E. & E. 86; *R. v. White*, L. R. 2 Q. B. 557; *R. v. Morton* (1892) 1 Q. B. 39), and is ineligible as guardian at any election at which he acts as returning officer.

A person convicted of treason or felony, for which he shall be sentenced to death, or penal servitude, or any term of imprisonment with hard labour, or exceeding twelve months, and who has not endured the punishment to which he has been adjudged, or such other punishment as may be substituted, or received a free pardon, shall be incapable of holding any place or office in any corporation (33 & 34 Vict. c. 23, s. 2; and see *Tipperary*, 3 O'M. & H. 19, 37). Such a person is therefore disqualified for election as a guardian; but there is no disqualification until conviction (see 1 Roe. 116; *New Ross*, 2 P. R. & D. 189), and if an appeal or error be pending against the conviction, the disqualification does not, it would seem, attach until such appeal or proceeding in error be determined.

No master of a workhouse nor any relieving officer shall be qualified to be appointed to any parochial office, except where the Local Government Board may authorise a relieving officer to hold a paid office in a parish (13 & 14 Vict. c. 101, s. 6). It seems doubtful whether the office of guardian is a parochial office within the meaning of this provision.

Returning
officer.

Treason or
felony.

Workhouse
master and
relieving
officer.

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Assistant
overseer and
paid officer.

No person, during the time for which he may serve or hold the office of assistant overseer of any parish, nor any paid officer engaged in the administration of the laws for the relief of the poor, nor any person who, having been a paid officer, shall have been dismissed within five years previously from such office, under the provisions of the Act 4 & 5 Will. IV. c. 76, shall be capable of serving as a guardian; and no person receiving any fixed salary or emolument from the poor rates in any parish or union shall be capable of serving as a guardian in such parish or union (5 & 6 Vict. c. 57, s. 14). The first part of this enactment is wider than the latter part, as it disqualifies for any parish or union, whereas the latter part of the enactment disqualifies only for the particular parish or union.

EXEMPTIONS
FROM
SERVICE.

The following persons are exempt from serving the office of chairman or guardian:—

A man belonging to the army reserve (45 & 46 Vict. c. 48, s. 7).

Blind, deaf,
or infirm.

Any person disabled by deafness, blindness, or any other permanent infirmity of body (G.O. r. 26, par. 1; M.C.A. s. 34, sub. 3).

Customs
officers.

Any commissioner, officer, clerk, or other person acting in the management or service of the customs (39 & 40 Vict. c. 36, s. 9).

Dentists.

Dentists registered under the Dentists Act, 1878 (41 & 42 Vict. c. 33, s. 30).

Elected for
more than one
parish.

Any person who is elected guardian in more than one parish or other area in the poor law union for which the election is held, and who accepts office or pays the fine for non-acceptance of office in respect of one of such areas, is exempt from service in any other of such areas (G.O. r. 26, par. 1; M.C.A. s. 34, sub. 5).

Factory
inspectors.

Inspectors of factories under the Factory and Workshop Act, 1878 (41 & 42 Vict. c. 16, s. 67).

Fined for non-
acceptance.

Any person who, having been elected, pays the fine for non-acceptance of office (G.O. r. 26, par. 1; M.C.A. s. 34, sub-ss. 1, 5).

Inland
revenue
officers.

Any officer, commissioner, collector, or person employed under the authority of the commissioners of inland revenue (53 & 54 Vict. c. 21, s. 8).

Lunatic or
imbecile.

Any person disabled by lunacy or imbecility of mind (G.O. r. 26, par. 1; M.C.A. s. 34, sub. 3).

Medical
practitioners.

Any medical practitioner registered under the Medical Act, 1858 (21 & 22 Vict. c. 90, s. 35).

Any person who has been elected without his consent to his nomination being previously obtained (G.O. r. 26, par. 1; M.C.A. s. 34, sub. 6).

The postmaster-general and any officer of the post-office (7 Will. IV. & 1 Vict. 33, s. 12).

Registrars of births, deaths, or marriages (7 Will. IV. & 1 Vict. c. 22, s. 18).

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Nominated
without his
consent.

Postal officers.

Registrars of
births, etc.

B.—RURAL DISTRICT COUNCILLORS.

The provisions of this Act with respect to the qualification (see *ante*, p. 31), and retirement of guardians (see *ante*, p. 11), and to the qualification of the chairman of the board of guardians (see *ante*, p. 6), shall apply to district councillors and to the chairman of the district council of a rural district, and any person qualified to be a guardian for a union comprising the district shall be qualified to be a district councillor for the district (L.G.A. s. 24, sub. 4). The last words of this provision "for a union comprising the district" extends the qualification so as to include persons who, though not qualified within the district yet possess a sufficient qualification for the union comprising the district.

QUALIFICA-
TION FOR
ELECTION
AND ACTING.

Statutory
enactment.

A person qualified to be elected or to be a rural district councillor must therefore be—

- (a.) A parochial elector of some parish within the district (as to which, see *post*, p. 68); or
- (b.) A person who has during the whole of the twelve months preceding the election resided in the district (as to which, see *ante*, p. 32); or
- (c.) A person who, though not qualified either as parochial elector or as a resident within the district, is yet so qualified within the union comprising the district.

The same persons are exempt from service as rural district councillors as are exempt from service as guardians (see *ante*, p. 64).

Exemptions
from service.

A person disqualified for being a guardian shall also be disqualified for being a rural district councillor (L.G.A. s. 46, sub. 5). As to disqualifications for the office of guardian, see *ante*, p. 51.

DISQUALIFI-
CATIONS.

In addition to the contracts applicable to guardians which do not disqualify, the following applies to a member of a rural district council:—

Contract for
supply of
bridge and
road materials.

A person shall not be disqualified for being elected or

CHAP. II. being a member or chairman of a district council by reason of being interested in any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood (L.G.A. s. 46, sub. 2 (a)).

This enactment is taken from 54 & 55 Vict. c. 63, s. 5, with the addition of the words as to the transport of materials for repairs, and the omission of the limit of £50 per annum contained in that enactment. The "highways or bridges" are apparently not, but the "roads or bridges" certainly are, limited to such as are in the "immediate neighbourhood" of the contractor; but unless in any case a distinction can be drawn between "highway" and "road," the difference in this respect in this provision is immaterial. District councils are surveyors of highways (P.H.A. s. 144), and as such are empowered, with the consent of the vestry, now the parish council, to contract for the supply and carriage of materials required for the repair of highways and bridges, not being county bridges (5 & 6 Will. IV. c. 50, ss. 5, 46), and therefore it is enacted that such a contract shall not create a disqualification. What roads or bridges are in the contractor's "own immediate neighbourhood" is a question of fact in each particular case; "neighbourhood" signifies a place which is nigh, that is nigh to one's habitation (Crabb Syn.); it is a stronger word than "vicinity," which latter word does not denote so close a connection as "neighbourhood" (Webster's Dict.); and "immediate neighbourhood" is of course a stronger term than "neighbourhood."

C.—URBAN DISTRICT COUNCILLORS.

QUALIFICA-
TION FOR
ELECTION
AND ACTING.

Statutory
enactment.

A person shall not be qualified to be elected or to be an urban district councillor unless he is a parochial elector of some parish within the district, or has during the whole of the twelve months preceding the election resided in the district, and no person shall be disqualified by sex or marriage for being elected or being a councillor (L.G.A. s. 23, sub. 2). So much of any enactment, whether in a public, general, or local and personal Act, as relates

to the qualification of a member of an urban sanitary authority shall be repealed (*ib.*). This enactment corresponds with that with respect to the qualification of a guardian, with the omission of the town councillor's qualification contained in the latter. The subject is fully dealt with *ante*, p. 31, *et seq.*

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It is also enacted that as from the appointed day there shall be no *ex officio* or nominated members of the urban district council (see L.G.A. s. 23, sub. 1). This abolishes the members of an urban sanitary authority selected under P.H.A. sch. II. r. 71.

Abolition of
ex officio and
nominated
members.

The same persons are exempt from service as urban district councillors as are exempt from service as guardians (see *ante*, p. 64).

Exemptions
from service.

The disqualifications enacted by the L.G.A. with respect to guardians apply also to urban district councillors (see L.G.A. s. 46, sub-ss. 1, 2, 4, and *ante*, p. 51).

DISQUALIFI-
CATION.

The exception with respect to a contract for the supply of materials for making or repairing highways or bridges applies in the case of an urban district councillor as in the case of a rural district councillor (see *ante*, p. 65).

Contract for
supply of
bridge and
road
materials.

PART II.

THE ELECTORS.

CHAP. III.

CHAPTER III.

THE PAROCHIAL ELECTORS.

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WHO ARE PAROCHIAL ELECTORS.

The parochial electors are the persons registered in the register of parochial electors (L.G.A. s. 2, sub. 1; s. 44, sub. 1); and the expression "parochial elector," when used with reference to a parish in an urban district, or in the county of London or any county borough, means any person who would be a parochial elector of the parish if it were a rural parish (*ib.* s. 75, sub. 2). The register of parochial electors consists of the local government register of electors and the parliamentary register of electors, so far as they relate to a parish (*ib.* s. 44, sub. 1), and the separate list of parochial electors of the parish (*ib.* s. 44, sub-ss. 6, 8).

The subjects of registration and of capacity for registration are beyond the scope of this book, but it may be convenient shortly to state who are entitled to be entered upon the above-mentioned registers and list.

The "local government register" means, as respects an administrative county in England and Wales, other than a county borough, the county register, and as respects a county borough or other municipal borough, the burgess roll (52 & 53 Vict. c. 63, s. 17, sub. 3). Local government register.

The county register comprises all persons registered as burgesses or county electors in the county (51 & 52 Vict. c. 10, s. 7, sub. 1).

The local government register of electors, so far as it relates to a parish, consists of men, unmarried women, and widows, registered in respect of the occupation, as owner or tenant, of—

- (1) A house, warehouse, counting-house, shop, or other building (the old burgess qualification).
- (2) Some land or tenement of the clear yearly value of not less than £10 (the £10 occupation qualification).

The "parliamentary register of electors" means a register of persons entitled to vote at any parliamentary election (52 & 53 Vict. c. 63, s. 17, sub. 2); and, so far as relates to a parish, it comprises men registered in respect of— Parliamentary register.

- (3) The ownership of freehold, copyhold, or leasehold property of the requisite value (the ownership qualification).
- (4) The occupation, as tenant, of land or tenements of a yearly rent of not less than £50 (the £50 rental qualification). This qualification is abolished, except as regards persons already on the register in 1884 in respect of this qualification (48 Vict. c. 3, ss. 10, 12).
- (5) The occupation, as owner or tenant, of some land or tenement of the clear yearly value of not less than £10 (the £10 occupation qualification).
- (6) The occupation, as inhabitant occupier, of a dwelling-house, or of some part of a house separately occupied as a dwelling (the household and service qualifications).
- (7) The occupation, as lodger, of lodgings, of the clear yearly value, if let unfurnished, of £10 or upwards (the lodger qualification).

CHAP. III.

Freemen.

Freemen, although registered on the parliamentary register of electors, are not so registered in respect of any qualification in a parish, and the part of the register in which their names appear does not relate to any parish (see L.G.A. s. 44, sub. 1), nor are they persons who would be parochial electors of the parish if it were a rural parish (*ib.* s. 75, sub. 2). The qualification of a freeman has no reference to the ownership or occupation of property, and he is not, it is submitted, entitled to vote as a parochial elector.

Separate list
of parochial
electors.

The separate list of parochial electors comprises—

(8) Men and unmarried women entitled to vote as parochial electors, but who are not entitled to be registered for voting as county or parliamentary electors.

(9) Married women entitled to be registered and to vote as parochial electors.

REGISTER OF
PAROCHIAL
ELECTORS.

Qualifications
in several
parishes.

A person, if duly qualified, may be registered in more than one register of parochial electors (L.G.A. s. 44, sub. 4), and therefore may be registered in the register of, and may vote in, every parish in which he is qualified as a parochial elector. A person registered in the parliamentary register to vote in a polling district other than the district comprising the parish, is entitled to vote as a parochial elector for that parish (*ib.* s. 44, sub. 5). At an election for a union or for a district not a borough, an elector shall not vote in more than one parish or other area in the union or district (*ib.* s. 48, sub. 2 (ii.)). A husband and wife shall not both be qualified in respect of the same property (*ib.* s. 43); if, therefore they possess but one qualifying property in the parish, one of them can alone be registered or vote as a parochial elector for that parish; if they possess two or more qualifying properties in the parish, both may be registered, and, if registered, may vote as parochial electors of that parish. So also if they possess qualifying properties in several parishes.

In parish
wards,

In an undivided parish or urban district the parochial electors of the parish or district shall be the electors of the guardians or urban district councillors for the parish or district. In a parish or urban district divided into wards for the election of guardians, or urban district councillors, the electors of the guardians or urban district councillors for each ward shall be such of the parochial electors as are registered in respect of

qualifications within the ward (L.G.A. s. 20, sub. 3; *ib.* s. 23, sub. 3); in a rural district, the councillors shall be elected by the parishes or other areas for the election of guardians in the district (*ib.* s. 24, sub. 1, and see *ante*, p. 21). The lists and registers of electors shall be framed in parts for wards of urban districts and parishes in such manner that they may be conveniently used as lists for polling at elections for any such wards (*ib.* s. 44, sub. 3; and see s. 84, sub-ss. 3, 4); and an elector shall not be permitted to vote in more than one ward (*ib.* s. 48, sub. 2 (iii.); G.O. r. 31, par. 2; U.O. r. 29, par. 2; R.O. r. 30, par. 2). There is nothing in the statute to confine the franchise of a parochial elector to any particular ward of the parish, and if, therefore (for example), a parochial elector be registered in the registers of two wards of the same parish, he may give his one vote in either ward at his option, but cannot vote in both wards at the same election; at different elections (*e.g.* bye-elections) held for the two wards, he may apparently vote in either ward, and thus at different times in both wards. If a parochial elector be wrongly left on the register for ward A, and be wrongly omitted from ward B, and the mistake is not discovered until after the register has been published, there appears to be no means of correcting the error before the next revision of the register, unless it be by mandamus to the revising barrister (see *R. v. Eastbourne, Town Clerk of*, 66 L. T. 323).

If the parish or district is divided into polling districts, each parochial elector shall give his vote in the polling district in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one polling district, he may vote in any one (but in one only) of the polling districts in which it is situate (G.O. r. 14, par. 2; U.O. r. 13, par. 2; R.O. r. 13, par. 2). In polling districts.

Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected (L.G.A. s. 20, sub. 4; s. 23, sub. 4; s. 24, sub. 4). Plural voting is thus abolished; the voter gives one vote and no more, and he votes irrespective of the amount of his assessment to the poor rate, or the value of his qualifying property. For example, if there be five guardians or councillors to be elected, and six candidates, the elector may give five votes, one to each of five Number of votes possessed by each elector.

CHAP. III.

Conclusive-
ness of
register.

candidates ; but he cannot give more than one vote to each or any one of the candidates.

Any person whose name is not in the register of the parochial electors of the parish shall not be entitled to vote as a parochial elector, and any person whose name is in that register shall be entitled to vote as a parochial elector, unless prohibited from voting by the L.G.A. or any other Act of Parliament (L.G.A. s. 44, sub. 1), or, *semble*, by the common law. The mere fact of the entry on the register of parochial electors of a person's name is thus conclusive as to his or her right to vote ; the returning officer and his presiding officers are not entitled to look behind that register, or to refuse to allow any person to vote whose name appears thereon ; and a person's vote cannot, even on a scrutiny held in an election petition, be struck off for want of non-residence, or for any irregularity preliminary to registration (*Stowe v. Foliffe*, L. R. 9 C. P. 734). The vote of any person prohibited by statute from voting may, however, be struck off on a scrutiny held in an election petition, and so also, it is submitted, may the vote of any person prohibited by the common law ; but if the name of any such person appears on the register of parochial electors, he is entitled to demand and to receive a voting paper notwithstanding his legal incapacity, and his vote must be left to be struck off, if at all, on a scrutiny (see *ib.*).

It is thus necessary to consider what persons are prohibited from voting, and whose votes are liable to be struck off on a scrutiny held in an election petition.

PERSONS
PROHIBITED
FROM
VOTING.

Aliens.

An alien is not entitled to be registered on the local government register of electors (see 51 & 52 Vict. c. 10, s. 2, sub. 2 ; M.C.A. s. 9, sub. 3 (a)), or parliamentary register of electors (Election Agent, p. 343), and therefore cannot vote as a parochial elector. But if the name of an alien appears on the register of parochial electors, he is entitled to demand and to receive a ballot paper notwithstanding his legal incapacity, and his vote must be left to be struck off on a scrutiny (see *supra*). As to who is an alien, see *ante*, p. 45.

Candidate.

A candidate may vote for himself or for any other candidate at common law, and unless prohibited by statute. There is nothing in the L.G.A. to take away this his common law right ; and if, therefore, he be a parochial elector for the parish, district, or ward for which the election is held, he may vote.

A person employed for payment by a candidate at the election of a guardian or district councillor as clerk, messenger, or polling agent, cannot vote (M.E.C.I.P.A. s. 13, sub. 3; L.G.A. s. 48, sub. 3; G.O. r. 27; R.O. r. 26; U.O. r. 26). This prohibition does not extend to the agents employed at the counting of the votes (see *post*, p. 202) who are employed after the voting is over.

CHAP. III.

Clerks, messengers, and polling agents.

A person convicted on indictment, or reported guilty by an election court, of any corrupt practice at a parliamentary election is incapable, during seven years from conviction, of being registered as an elector or voting at any parochial election (C.I.P.P.A. s. 6, sub. 3; ss. 4, 64), and therefore at an election of a guardian or councillor; so also if he be convicted or reported guilty by an election court of any corrupt practice at a municipal election (M.E.C.I.P.A. s. 2, sub. 2; s. 3, sub. 1); or at the election of a county councillor (*ib.*; L.G.A. 1888; ss. 2, 75); or of a guardian or district or parish councillor (M.E.C.I.P.A. s. 2, sub. 2; s. 3, sub. 1; L.G.A. s. 48, sub. 3); or at any of the following elections, viz.: member of a local board, member of improvement commissioners, poor law guardian, member of school board (M.E.C.I.P.A. s. 36). A person convicted of any corrupt practice at a school board election is similarly incapable for six years after such election (33 & 34 Vict. c. 75, s. 91); but this provision is perhaps superseded by M.E.C.I.P.A. s. 36, just quoted. A person convicted of an offence against the Public Bodies Corrupt Practices Act, 1889, is, at the discretion of the court before which he is convicted, in the event of a second conviction for a like offence, liable to be adjudged to be incapable for seven years of being registered as an elector, or voting at an election of members of any public body, and the enactments for preventing the voting and registration of persons declared by reason of corrupt practices to be incapable of voting shall apply to a person so adjudged to be incapable of voting (52 & 53 Vict. c. 69, ss. 1, 2). The expression "public body" means (*inter alia*) any body which has power to act under and for the purposes of any Act relating to local government (*ib.* s. 7), and therefore a board of guardians, district or parish council.

Corrupt practices.

A drunkard is not prohibited from voting by the L.G.A. or by any other Act of Parliament, and his vote is, it seems, good at common law, unless he is in such a

Drunkard.

CHAP. III. state of intoxication as to be *non compos mentis* for the time being, and therefore incapable of voting. This is, in the first instance, a question of fact for the returning or presiding officer to decide in each case, and his decision is subject to review on a scrutiny. Where a voter is able distinctly to answer the questions which may be put to a voter, though evidently drunk at the time, his vote is good, although he subsequently, when sober, alleges that he did not know for whom he then voted, and desires to alter his vote (*Monmouth*, K. & O. 413); and a vote has been held good though it was alleged that the voter was quite incapable of knowing what he did, and was in such a state that no one would have thought of putting the oath to him (*Wigan*, Falc. & F. 695).

Idiots. An idiot is not prohibited from voting by the L.G.A. or by any other Act of Parliament. But an idiot is incapable at common law of voting at any election (*Hey. Co.* 255, 259; *Bedfordshire*, 2 Lud. 567; *Orme*, 108); and therefore cannot, it is submitted, vote as a parochial elector. As to who is an idiot, see *ante*, p. 62.

Illegal practices. A person convicted of an illegal practice at a parliamentary election is incapable, during five years from the date of his conviction, of being registered as an elector, or voting at any parochial election held for or within the county in which the illegal practice was committed (*C.I.P.P.A.* ss. 10, 64), and therefore at an election of a guardian or councillor; so also if he be convicted of an illegal practice at a municipal election, or at an election for a member of a local board or improvement commissioners, poor law guardian, or member of a school board (*M.E.C.I.P.A.* ss. 7, 36, 34); or at an election of a county councillor (*ib.*; *L.G.A.* 1888, ss. 2, 75); or of a district or parish councillor (*M.E.C.I.P.A.* ss. 7, 36, 34; *L.G.A.* s. 48, sub. 3).

Infants. An infant is not entitled to be registered in the local government register of electors (see 51 & 52 Vict. c. 10, s. 2, sub. 2; *M.C.A.*, s. 9, sub. 2 (*a*)), or parliamentary register of electors (see 7 & 8 Will. III. c. 25, s. 7), and therefore cannot be registered or vote as a parochial elector. As to who is an infant, see *ante*, p. 36.

Infirm persons. An infirm person is also not prohibited from voting by the L.G.A. or any other Act of Parliament, but it is, it is submitted, a question in each case whether he is, or is

not, capable of voting, or liable to have his vote struck off on a scrutiny. Where the inability arises, not from any defect of intellect (as to which, see Lunatics, *infra*), but from physical defect in the organs of hearing or speech, it is not clear whether the voter ought to be prevented from voting on account of not answering the questions, &c. The better opinion appears to be that if such a person can show by writing, or by signs explained by an interpreter, that he understands the purpose for which he has come to the poll, and the nature of the questions, the obligation of an oath, and the temporal dangers of perjury, and can, by the same means, answer the questions, take the oath, and indicate the candidate for whom he desires to vote, his vote ought to be received and be held valid (see Perkins, s. 25; Rog. 120; Cunn. 97).

A blind person, or a person incapacitated by other physical cause from voting by ballot, gives his vote through the presiding officer (B.A. r. 26; and see *post*, p. 248).

The criteria to determine the validity of a vote given by a childish or imbecile person are the same as in the case of a lunatic, as to which see *passim*.

A lunatic is also not prohibited from voting by the L.G.A. or by any other Act of Parliament, and his vote given during a lucid interval is good at common law (Heyw. Co. 261), and is therefore, when so given, good at an election of a guardian or councillor. As to who is a lunatic, see *ante*, p. 63. It seems that it is a question of fact for the returning or presiding officer to decide whether the alleged lunatic is *at the moment of voting* sufficiently *compos mentis* to discriminate between the candidates, and to answer the questions, and to take the oath (if required), in an intelligible manner (Heyw. Co. 260). If, when, he presents himself, he is sufficiently sane to be in a position to give his vote, the presiding officer is not justified in rejecting it (*ib.* 261). Lunatics.

A voter whose intellect was disordered, but not so as to render him entirely unfit for business, was very eager during the election for the candidates for whom he voted, and his vote was held good (*Bridgewater*, 1 Peck, 108). A voter was extremely affected by the noise of the poll, but was stated to be very sensible when undisturbed; he repeated the oath and kissed the book, but had no

CHAP. III.

Parochial
relief or other
alms.

clear idea of the names of the candidates, though he had of the side on which he wished to vote, and his vote was held good (*Oakhampton*, 1 Fraser, 162).

A person in receipt of parochial relief or other alms, or who has been in receipt of relief by himself or his family during the year preceding the 15th July, not being medical relief, cannot be registered on the parliamentary register of electors (2 & 3 Will. IV. c. 45, s. 36), or on the local government register of electors (M.C.A. s. 9, sub. 3 (*b*); 51 & 52 Vict. c. 10, s. 2; L.G.A. 1888, s. 75; 48 & 49 Vict. c. 46, s. 2; L.G.A. s. 44, sub. 1), and therefore cannot vote as a parochial elector. If however any such person, not having been objected to on the revision, remains on the register, he is entitled to vote, and his vote will not be struck off on a scrutiny (*Storve v. Foliffe*, L. R. 9 C. P. 734; and see *Hayward v. Scott*, 5 C. P. D. 231). So also if he received parochial relief or other alms since the revision of the register, and before the election (*ib*). As to what is, and what is not, "parochial relief or other alms," see *ante*, p. 45.

Police
constables.

Constables may vote, the disabilities formerly existing in regard to them having been now wholly removed (50 & 51 Vict. c. 9; 56 & 57 Vict. c. 6); and when a constable is or is likely to be, on the day of election, sent or employed in the discharge of his duty so as to prevent him voting at the polling station at which he would otherwise be entitled by law to vote, special provisions have been enacted to enable him to record his vote (see *post*, p. 240).

Returning
officers.

If an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer, or deputy returning officer who counts the votes, may, if a parochial elector of the parish or district, give such additional vote in writing, but shall not otherwise be entitled to vote at the election (G.O. r. 22; U.O. r. 21; R.O. r. 21). If the returning officer be a parochial elector, his original vote is thus taken away; he has none, and herein he differs from the chairman of the parish meeting (see L.G.A. sch. I. pt. I. r. 8). As to his casting vote, see further, *post*, p. 306.

Treason or
felony.

A person convicted of treason or felony, for which he is sentenced to death or penal servitude, or any term of imprisonment with hard labour exceeding twelve months,

is incapable of exercising any right of suffrage until he has suffered the punishment to which he has been sentenced, or such other punishment as by competent authority may be substituted for the same, or shall receive a free pardon (33 & 34 Vict. c. 23, s. 2). Such a person therefore cannot vote as a parochial elector (L.G.A. s. 44, sub. 1).

VOTES THROWN AWAY.

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RULE AS TO
VOTES
THROWN
AWAY.

When the candidates have been nominated, and the time for nomination has expired, it is open to any candidate to consider, if more candidates stand nominated than there are vacancies to be filled, whether each of the opposing candidates was duly nominated, and if not, whether any such candidate is duly qualified. These considerations will become immaterial if the candidate obtain at the poll a majority of votes; but if he poll only a minority of actual votes, then a want of due nomination or of qualification in any opposing and successful candidate becomes material. For if the opposing candidate was not duly nominated, he was not entitled to go to the poll; and, if being duly nominated, he is at the time of election disqualified for election, and due notice has been given to the electors of that fact, such candidate is considered as non-existent for the purpose of the election; and all votes given for him subsequent to such notice, or previously thereto, if the electors have actual knowledge of the disqualification, are considered

as not given at all, or thrown away (see *R. v. Hawkins*, 10 East, 214, affirmed on appeal, 2 Dowd 124; *Claridge v. Evelyn*, 5 B. & A. 86). The effect of this is that the candidate next on the poll, though with a minority of actual votes, may be declared elected, if, after deducting from the poll of the unduly nominated or disqualified candidate the votes so thrown away, the former is found to have a majority of lawful votes. Where no such notice is given, and the electors have no such knowledge of the disqualification, the candidate next on the poll is not entitled to the seat, although the disqualified candidate be unseated, but there must be a fresh election.

The qualification which a candidate must possess is dealt with in Chap. II., *ante*, p. 30, and a study of that chapter will aid in determining whether the opposing candidate is duly qualified. If the candidate is well advised that the opposing candidate is not duly qualified, there are then two matters which require his attention. First, he must consider whether the disqualification existed at the time of election. Secondly, if it did so exist, he must be careful that any notice thereof which he may give to the electors is sufficient in law.

It is not every disqualification to be elected that will also disqualify a person for being a candidate, or cause votes given for him to be thrown away. Avoiding the election of a candidate, and destroying the status of a candidate, are two very different things (*Drinkwater v. Deakin*, L. R. 9 C. P. 626). To cause votes given for a candidate to be thrown away, the disqualification must be founded on some positive and definite fact existing and established at the time of the poll, so as to lead to the fair inference of wilful perverseness on the part of the electors voting for the disqualified person (2nd *Clitheroe*, 2 P. R. & D. 285; approved *Drinkwater v. Deakin*, *ubi sup.*). Of the class of disqualifications that will cause votes to be thrown away are the cases of infancy, of an alien, and of a convicted felon: in all these cases there is something wanting in the candidate which cannot be supplied, the existence or non-existence of which is not dependent on argument or decision, but which the law insists shall exist in every one who puts himself forward as a candidate (*Drinkwater v. Deakin*, L. R. 9 C. P. 635). So also would seem to be the case of a returning officer (*Southampton*, Heyw. Co. 535; *Wakefield*, B. & Aust. 270; see also *Fanagan v. Kernan*, 8 L. R. Ir. 44).

Disqualifications which cause votes to be thrown away.

CHAP. IV.

Corrupt and
illegal prac-
tices at pend-
ing election.

Corrupt and illegal practices, however, stand on a different footing, and although votes given for a candidate who bribes, &c., at the election then proceeding, are invalid for the purpose of seating him, they are not so thrown away as to seat his opponent. No disqualification arises in that sense until the candidate has been reported by an election court, or has been convicted; the words of the statute creating the disqualification are not that a candidate who shall *be* guilty shall be disqualified, but whom the court "reports" as having committed a corrupt or illegal practice, or who is "convicted" of a corrupt practice, and the disqualification expressly attaches only from the date of the report or conviction (*Drinkwater v. Deakin*, L. R. 9 C. P. 639; affirming *Norwich*, 1 O'M. & H. 8, as cited Leigh & Le M. 189, and overruling *Trench v. Nolan*, 6 Ir. R. C. L. 464; 27 L.T. 69). If the disqualification arises from a report, the report must be distinct; a mere statement of facts from which guilt may be inferred is not sufficient (*Grant v. Pagham, Overseers of*, 3 C. P. D. 80).

Corrupt and
illegal prac-
tices at pre-
vious election.

Where, however, the candidate has been reported, or has been convicted of such a corrupt or illegal practice at a former election as disqualifies him for the election then proceeding, votes given for him after notice are thrown away, and the seat will be given to the candidate for whom it is claimed, if, after deducting from the poll of the former the votes so thrown away, the latter is found to be in a majority (*2nd Southwark*, Cliff. 131, 345; *2nd Canterbury*, *ib.* 357; *Kirkcudbright*, 1 Lud. 72; *2nd Newcastle-under-Lyme*, B. & Aust. 564; *2nd Peterborough*, 2 P. R. & D. 295; *Drinkwater v. Deakin*, L. R. 9 C. P. 626).

Disqualifica-
tion disputed
or doubtful.

If the alleged disqualification be disputed or denied, that circumstance has in one case (*Leominster*, Rog. 1202) apparently been treated as immaterial, but in another (*2nd Cheltenham*, 1 P. R. & D. 238) as of great importance. So where the disqualification is not clear, but doubtful, and depends on argument and decision as to the effect of complicated facts and legal inferences, the decisions are conflicting. In some cases it has been held that if the disqualification did in fact exist at the election, the decision establishing the disqualification related back to the time of election, and nullified the votes given thereat after notice of the disqualification, on the ground that every man is bound to know the

law; and, therefore, when apprised by notice of the fact creating the disqualification of the candidate for whom he voted, his vote was given at his own risk, and if he were wrong in his construction of the law, he could not plead ignorance or mistake (*ignorantia legis neminem excusat*), and upon these grounds the candidate next on the poll has been seated (*Wakefield*, B. & Aust. 317; *Belfast*, Falc. & F. 601; *Cork County*, K. & O. 406; *Tavistock*, 2 P. R. & D. 5; *2nd Horsham*, 1 P. R. & D. 258; *Leominster*, Rog. 1202). In other cases the distinction has been observed, and where the alleged disqualification was disputed, and was not clear but doubtful, the election tribunal, while unseating the disqualified candidate, yet declined to give the seat to the qualified candidate (*Abingdon*, 1 Doug. 419; *Penryn*, C. & D. 55; *2nd Cheltenham*, 1 P. R. & D. 224; *2nd Clitheroe*, 2 P. R. & D. 276; see also *Fanagan v. Kernan*, 8 L. R. Ir. 44). The law in such cases has not yet been declared by the election judges of the High Court, but it must be remembered that the words in the *2nd Clitheroe* case (2 P. R. & D. 276) "that the disqualification must be founded on some positive and definite fact existing and established at the time of polling," have been approved and followed in *Drinkwater v. Deakin* (L. R. 9 C. P. 629, 641); and that the Lord Chief Justice in that case (see pp. 629, 640) seems to doubt whether votes are thrown away where the disqualification depends on an uncertain or obscure legal question, or that in such a case an elector gives his vote at his own risk and on his own responsibility (and see *Etherington v. Wilson*, L. R. 20 Eq. 618). It has also been said that to hold the contrary, is to place each individual elector in a position of hardship and difficulty, if upon the mere assertion of an opposing party that a disqualification exists, the truth or falsehood of which the elector may have no means of ascertaining, he is to exercise his franchise at the risk of his vote being thrown away, if on subsequent investigation the existence of that disqualification should be established (*2nd Clitheroe*, 2 P. R. & D. 286; and see the note to *Radnor*, 1 Peck. 494). It is submitted, therefore, that a disqualification depending upon a novel question, or one of doubt or difficulty, or upon legal argument and decision upon complicated facts and inferences, does not cause votes to be so thrown away as to seat the opponent on a minority of votes (see *Cox v. Ambrose*, 7 Times L. R. 59).

CHAP. IV.

Knowledge
of disqualifica-
tion.

It is now established that if an elector has actual knowledge that a candidate is disqualified, and nevertheless votes for such candidate, his vote is thrown away, although express notice of the disqualification has not been given to him (*Drinkwater v. Deakin*, L. R. 9 C. P. 642, dissenting from *R. v. Tewesbury, Mayor of*, L. R. 3 Q. B. 629; *Beresford-Hope v. Lady Sandhurst*, 23 Q. B. D. 79). Full knowledge involves both knowledge of the facts and of the law as applicable to those facts; but it is sufficient to cause the vote to be thrown away, that the elector should have such knowledge of the facts, as if he knew what legally constituted incapacity, would convince him, as a person of ordinary intelligence, that the incapacity existed, and that the candidate is incapable of being elected (*Drinkwater v. Deakin*, L. R. 9 C. P. 642). He cannot make his vote valid by asserting that he did not know the law (*ib*).

Disqualifica-
tion notorious.

Sometimes the disqualification arises on a fact of such notoriety, or of so patent a nature, as that each elector may fairly be supposed to have express individual knowledge of it; or, in other words, as that the notoriety of the incapacity is tantamount to notice (see *R. v. Blissell*, 1 Roe, 279; *R. v. Derby, Councillors of*, 7 A. & E. 419). Such was the case where the candidate at a parliamentary election refused to take the qualification oath, formerly required, when requested so to do (*Leominster*, C. & D. 1); and such is the case where one of the candidates is the returning officer at the election in question (*Southampton*, Heyw. Co. 535), or is a woman, at any election for which she is disqualified (*Gosling v. Veley*, 7 Q. B. 439; *Beresford-Hope v. Lady Sandhurst*, 23 Q. B. D. 79). The novel creation of an office of profit under the crown was held in a parliamentary election to be "notorious" (*Fife*, 1 Lud. 455); and a candidate has been petitioned against on the ground that it was "notorious" that he was an infant (*Flintshire*, 1 Peck. 526). It has also been laid down that knowledge of the disqualification may be established by "notoriety" as well as by express notice (*2nd Clitheroe*, 2 P. R. & D. 285). It will, however, be found that in all the above cases except *Southampton* (Heyw. Co. 535), and except *Beresford-Hope v. Lady Sandhurst* (23 Q. B. D. 79), in which latter case the candidate was a woman, express notice was given to the electors, and that the minority candidate was not seated on mere proof

of the "notoriety" of the facts creating the disqualification.

CHAP. IV.

Where the electors have no knowledge of the disqualification, and the disqualification is not notorious, notice of the disqualification should invariably be given (see *R. v. Hiorns*, 7 A. & E. 960). For if it be not given, votes given before notice of the disqualification are good, and if after deducting the votes given after notice from the total number of votes given for the disqualified candidate, he remains in a majority, the minority candidate cannot be seated, and there must be a fresh election (*R. v. Bridge*, 1 M. & S. 76; *Hawkins v. Rex*, 2 Dow, 124; and see *R. v. Bester*, 3 L. T. 667).

Votes given
before notice.

Express notice is thus necessary whenever the elector is ignorant of the disqualifying facts, and such facts are not notorious, and it is indeed prudent to give express notice in all cases, not only because votes given before notice may be held to be good, but because some tribunals have been reluctant to treat votes as thrown away, unless it has appeared that the elector has acted with wilful perverseness by deliberately voting for an unqualified candidate. And although it is by no means clear since *Drinkwater v. Deakin* (L. R. 9 G. P. 626), and *Beresford-Hope v. Lady Sandhurst* (23 Q. B. D. 79), were decided, that the election judges would feel the same reluctance, yet whenever it is necessary to show actual wilful perverseness on the part of the elector, it is not easy to do so without proof of such notice, as the elector can hardly be said to vote perversely, if he vote without his attention having been previously directed both to the facts and to the law by which the candidate is disqualified.

NOTICE OF
DISQUALIFI-
CATION.

The notice appears to be sufficient if it communicate such facts as would put a person of ordinary care and intelligence on inquiry, and, if he exercise ordinary diligence and intelligence in such inquiry, would lead him to the conclusion that the facts did exist which would in law incapacitate the candidate (*Drinkwater v. Deakin*, L. R. 9 G. P. 642). A notice has also been held sufficient, which merely stated the belief of the person giving it that the candidate was disqualified (*ib.*), and that the party giving the notice was "advised" that the candidate was disqualified (*Belfast, Falc. & F. 601*). It would therefore appear to be unnecessary to refer to the law; but it is far more prudent to make the notice as full

Contents and
form.

CHAP. IV.

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as possible, and (1), to give with particularity and clearness the grounds or facts on which the disqualification is founded; (2), to state that by reason of such grounds or facts, the candidate is by law disqualified, and to refer to the statute or law imposing the disqualification; and (3), to state also that all votes given for such candidate after such notice will be thrown away and treated as null and void.

The notice may be in the following form:—

Parish of _____ Election of Guardian [Councillor] 189 .

WHEREAS A. B. of _____, a candidate for election as guardian [or district councillor] for the above-named parish, at the election above-named, and now about to be held, is [*here state the grounds or facts on which the disqualification is founded, as that A. B. is an infant or an alien, or is concerned in a bargain or contract entered into with the board [or council], viz. : a contract dated _____, made between the board [or council] and A. B., for the supply of coals to the board [or council] for a period of _____ months from the date hereof.*]

AND WHEREAS by reason of the matters aforesaid, the said A. B. is by law [and by virtue of the statute _____ and other statutes in that behalf] incapacitated and disqualified for being elected a guardian [or councillor] for the said parish of _____ at the above-named election. NOW TAKE NOTICE that all votes given for the said A. B. at the said election will be thrown away, and will be wholly null and void.

Dated this _____ day of _____ 189 .

(Signed) C. D. _____
 [Address.]
 [Description.]

A candidate for election as guardian [or councillor] for the said parish of _____ at the said election.

Or,

(Signed) E. F. _____
 G. H. _____
 K. L. _____

Parochial electors of the said parish.

To the parochial electors of the parish of _____ .

By whom,
given and
signed.

The notice should proceed from the candidate objecting or his authorised agent, and may be signed either by the candidate (as in *Tipperary*, 3 O'M. & H. 20, and *R. v. Tewkesbury, Mayor of*, L. R. 3 Q. B. 631) or by the candidate's agent (as in *Galwey County*, 2 O'M. & H. 47, and *Drinkwater v. Deakin*, L. R. 9 C. P. 627). In the old cases, the notice often proceeded from, and was signed by, one or more electors (see *Wakefield*, B. & Aust. 272; *2nd Newcastle-under-Lyme*, *ib.* 569; *2nd Cheltenham*, 1 P. R. & D. 234; *2nd Horsham*, *ib.* 245); and indeed as an elector can petition against the election of a candidate, it is submitted that he must be entitled

to give notice to his brother electors of the ineligibility of such candidate. CHAP. IV.

When it is thought probable that the facts alleged as the ground of disqualification may be authoritatively denied or questioned, the notice may well be supported by a statutory declaration verifying such facts ; or, if the disqualification depend upon a legal question which is likely to be controverted, an opinion of counsel may be obtained (as in *2nd Canterbury*, Cliff. 360). Such declaration or opinion may then be attached to, or form part of, each notice served.

Authentica-
tion of facts
in notice.

The notice should be made as public as possible, and, if possible, it should be personally served on every elector who has not voted, and either before the opening of the poll, or on each elector as he comes up to vote (*Wakefield*, B. & Aust. 272, 319 ; *Tavistock*, 2 P. R. & D. 7 ; *Leominster*, C. & D. 4). It may be posted on or in the vicinity of the place of nomination and of the several polling stations, advertised in the newspapers circulating in, and extensively posted throughout, the constituency (as in *Galway County*, 2 O'M. & H. 46 ; *Cox v. Ambrose*, 7 Times L. R. 59) ; and printed copies may also be circulated through the constituency (as in *Tipperary*, 3 O'M. & H. 20). Wherever it is posted, it should be so posted as to be visible to every elector, and it should of course be posted before the opening of the poll, and be continued until the poll has closed (as in *Tavistock*, 2 P. R. & D. 8). The name and address of the printer and publisher must appear on the face of the notice (M.E.C.I.P.A. s. 14 ; L.G.A. s. 48, sub. 3).

How given
and published.

Where the notice is not given until after the commencement of the poll, the question arises of whether it was given to a sufficient number of electors to turn the majority (see *ante*, p. 78). A careful record should therefore be kept of the electors served with the notice, as it is only the votes of the electors voting for the disqualified candidate after the notice is given, which will be thrown away ; all votes given for him before the notice being good, unless the elector had, as already mentioned (see *ante*, p. 82), previous knowledge of the disqualification, or unless the disqualification be "notorious" (see *ante*, p. 82).

Keeping a
record where
notice given
after poll
opened.

If the disqualification is likely to be disputed, or if it be not clear but doubtful (see *ante*, p. 80), the candidate must be prepared for his notice being met by some

COUNTER-
NOTICE.

CHAP. IV. counter-notice, or step on the part of his opponent. The alleged disqualification may be denied by an oral statement by the opposing candidate himself to the electors (as in *2nd Cheltenham*, 1 P. R. & D. 238), and such contradiction may be supported by a counter-statement issued and circulated by such candidate's agent (as in *ib.* ; *Tavistock*, 2 P. R. & D. 6 ; *Leominster*, Rog. 1202) ; and if the disqualification turn on a question of law, such counter-statement may comprise counsel's opinion against the alleged disqualification (as in *Leominster*, Rog. 1202). Any such counter-statement should be published as extensively as the original statement (see *ante*, p. 85).

CAUTION
DESIRABLE
BEFORE
GIVING
NOTICE OR
COUNTER-
NOTICE.

A candidate should be very sure of his facts, and well advised as to his law, before giving a notice of the disqualification of the opposing candidate. It is libellous, and actionable without proof of special damage, to allege that another has been found guilty of bribery or corruption (*Bendish v. Lindsay*, 11 Mod. 194 ; *Wilson v. Reed*, 2 F. & F. 149), or to write and publish of any one that he is "incapacitated and disqualified from being elected," and if special damage can be proved to have been caused by such publication (as that the opposing candidate has thereby lost the election), the candidate, and the printer and publisher, might be mulcted in heavy damages, unless they could prove that every statement contained in the notice was true to the letter. If they could not prove this, they would have to rely on the notice being a privileged communication. Now, it no doubt might be argued that if the candidate had reasonable grounds for believing every statement contained in the notice to be true, and also drew the correct legal inference from the facts before him, the publication of such notice was privileged. It might also be urged with some reason, that it was his duty to the electors to warn them not to throw away their votes, and also that it was his right to give the notice in order to secure the valuable privilege of obtaining the seat without a fresh election. But these are doubtful contentions ; there is no authority precisely in point, while it is clear law that the mere fact that A. B. is a candidate at an election does not entitle his opponents to libel him (*Harwood v. Astley*, 1 B. & P. N. R. 47 ; *Dickeson v. Hilliard*, L. R. 9 Exch. 79). The notice should contain no more than is reasonably necessary, and must not go on to personally

attack the private life and character of the opponent (*Duncombe v. Daniell*, 8 C. & P. 222), or it will clearly be unprivileged. CHAP. IV.
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A false notice, or one given *malâ fide*, might perhaps be held to be a fraudulent device or contrivance to impede or prevent the free exercise of the franchise of the electors, and therefore a corrupt practice (as to which, see *Election Agent*, p. 431).

PART III.

UNCONTESTED ELECTIONS.

CHAP. V.

CHAPTER V.

NOTICE OF ELECTION.

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The B.A. and the M.C.A., as adapted and altered by the G.O., U.O., and R.O. respectively, are applied to the election of guardians and district councillors by L.G.A. s. 48, subs. 3, 4. The provisions of the B.A. have in many cases been materially altered by the above-named orders, from those which appear in the B.A. itself, and are consequently cited, not from that Act, but from the schedule to G.O. r. 25 ; U.O. r. 24 ; and R.O. r. 24.

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RETURNING OFFICER.

In elections for guardians and rural district councillors, the returning officer shall be the clerk to the guardians of the poor law union in which the parish is situate, or with which it is co-extensive (G.O. r. 1, par. 1 ; R.O. r. 1, par. 1) ; he is thus returning officer in the election of guardians for a parish in a borough as well as for a parish in an urban district. In elections for urban district councillors, the returning officer shall be the clerk to the urban sanitary authority (U.O. r. 1, par. 1) ; but if the urban district is formed by an order of the county council which, for that purpose, comes into operation after the date of the U.O., the returning officer shall be a person appointed by the county council (*ib.* r. 1, par. 3). The returning officer for the election of urban district councillors shall act as deputy returning officer at any poll for the election of guardians, if the polls for the two elections will be taken together (U.O. r. 12, par. 3) ; if the polls will not be taken together, or, if in the urban district, there will be a poll for the election of guardians only, he is not deputy returning officer unless so appointed by the returning officer.

Who is the returning officer.

If the clerk is unwilling to act as returning officer, or if the office of clerk is vacant at the time when any duty relative to the election has to be performed by the returning officer, or if the clerk from illness or other sufficient cause is unable to perform such duty, the guardians in the case of an election for guardians or for rural district councillors, and the urban sanitary authority in the case of an election for urban district councillors, shall appoint some other person to act as returning officer or to perform such of the duties of the returning officer as then remain to be performed, as the case may be (G.O. r. 1, par. 2 ; R.O. r. 1, par. 2 ; U.O. r. 1, par. 2). The same person shall in all cases be the returning officer at the election of rural district councillors, and of any parish councillors to be elected at the same date in the parish (R.O. r. 1, par. 2).

Unwillingness, or inability to act, or vacancy.

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Office for
purposes of
the election.

The returning officer shall appoint an office for the purposes of the election (G.O. r. 1, par. 3; R.O. r. 1, par. 3; U.O. r. 1, par. 4). If the parish or district is divided into wards for the election of guardians, rural district councillors, or urban district councillors, this rule applies to each of such wards as if it were a parish or district (G.O. r. 31, par. 1; R.O. r. 30, par. 1; U.O. r. 29, par. 1); and if the parish is united with any other parish for the election of guardians or rural district councillors, it applies as if such parishes formed the parish (G.O. r. 32, par. 1; R.O. r. 31, par. 1). There is no requirement that the office shall be situated in the parish, united parishes, district, or ward for which the election is held, but, wherever it is practicable, it should be so situated, as from this office the returning officer issues his notices, and at this office he is intended to receive all notices and communications, and to be accessible to the electors.

Declaration
of secrecy.

The returning officer makes the statutory declaration of secrecy before a justice of the peace (B.A. r. 54); and see *post*, p. 197). One declaration may be made by the returning officer in respect of all the parishes for which he is returning officer (*ib.* sch. II., note to form of declaration).

Incapacities.

A returning officer, or his partner or clerk, shall not act as agent for any candidate in the management or conduct of his election (B.A. s. 11). As to the incapacity of a returning officer to give an original vote, see *ante*, p. 76, and as to his ineligibility, see *ante*, p. 63.

Want of title
does not
vitate
election.

No election shall be declared invalid by reason of a defect in the title of a returning officer (B.A. s. 13).

Liabilities
and penalties.

A returning officer is guilty of a misdemeanor if he, or his partner or clerk, act as agent for any candidate in the management or conduct of his election (B.A. s. 11); and for any wilful misfeasance, or wilful act or omission in contravention of the B.A., as applied by the L.G.A., he is, in addition to any other penalty or liability to which he may be subject, liable to forfeit a sum not exceeding £100 to any person aggrieved (B.A. s. 11). If a person who has undertaken to act as returning officer neglects or refuses to conduct or declare the election, in manner provided by the L.G.A. and the G.O., R.O., or U.O., as the case may be, he shall for every such offence be liable to a fine not exceeding £100, recoverable by action brought within three months (M.C.A. s. 75,

sub-ss. 1, 2). For a breach of any ministerial duty where-
by the candidate has lost the election, he is liable to an
action at law, though not for a mere mistake on a point
of law, and if he act with partiality or corruptly, he may
be fined and imprisoned (see the cases cited, Election
Agent, pp. 50, 51).

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—
DEPUTY
RETURNING
OFFICER.
—

The returning officer may, in writing, appoint at an
election of guardians, one or more fit persons to be his
deputy or deputies, and at an election of rural district
councillors or urban district councillors, a fit person to
be his deputy, for all or any of the purposes relating to
the election (G.O. r. 1, par. 4; R.O. r. 1, par. 4; U.O.
r. 1, par. 5); and, at an election of guardians or rural
district councillors, he shall, and at an election of urban
district councillors he may, appoint a deputy when he
does not act as presiding officer in respect to the
counting of the votes (see *post*, p. 264). The appoint-
ment must thus be made in writing, and should of course
be made a sufficient time before the election, or before
the deputy is intended to act, to enable such deputy to
make all needful preparations. "Writing" includes
printing, lithography, photography, and other modes
of representing or reproducing words in a visible form
(52 & 53 Vict. c. 63, s. 20), and the appointment
may therefore be in writing, or in any one or more of
such other modes, or partly in one and partly in any
other. The deputy may be appointed "for all or any of
the purposes relating to the election," and therefore may
be appointed generally to conduct the whole election,
or for some specific purpose only, *e.g.* to attend at the
counting of the votes. It will be observed that at an
election of guardians the returning officer may appoint
one or more, and therefore any number of, deputies; but
that at an election of rural district councillors or urban
district councillors he may appoint only one deputy,
and cannot appoint two or more deputies to take different
parts in such an election. A deputy cannot be appointed,
and is not bound to act, against his own will.

Appointment.

The same person shall act as deputy returning officer
in respect of the election both of rural district councillors
and of any parish councillors to be elected at the same
date in the parish (R.O. r. 1, par. 5). If, as provided by
G.O. r. 12, par. 1, or as directed by the county council
under *ib.* par. 2, the poll for the election of guardians for
the parish and any poll for the election of urban district

None in
certain cases.

CHAP. V.

councillors are to be taken together (see *post*, p. 183), the returning officer at the election of urban district councillors for the urban district shall be the deputy returning officer for the purposes of dividing the parish into polling districts (see *post*, p. 170), the determination of the number and situation of the polling places (see *post*, p. 172), the giving of the notice of poll (see *post*, p. 184), the appointment of presiding officers (see *post*, p. 161), the provision of compartments in polling stations and ballot papers (see *post*, pp. 174, 178), and the receipt of appointment of candidates' polling agents (see *post*, p. 200), in relation to the poll for the election of guardians for the parish (G.O. r. 13, par. 1, and see U.O. r. 12, par. 3). In any such case a deputy shall not be appointed.

Declaration
of secrecy.

The deputy makes the declaration of secrecy as mentioned, *ante*, p. 90.

Defect in
appointment.

No election shall be declared invalid by reason of a defect in the appointment of a deputy returning officer (B.A. s. 13).

Forms.

The following is a form of a general appointment :—

General
appointment.

THE LOCAL GOVERNMENT ACT, 1894.

[Insert name of
parish, united
parishes, dis-
trict, or ward
to wit.] By virtue of the Local Government Act, 1894, and of every or any other power or authority enabling me in this behalf, I, _____, returning officer for the election of guardians [urban district councillors, or rural district and parish councillors] for the parish [united parishes, district, or ward] of _____, do hereby nominate, constitute, and appoint _____ of _____, my deputy for all and every the purposes relating to the said election for the said parish, [united parishes, district, or ward], and do depute and authorize him to exercise and perform all powers and duties, and to do and execute for me and in my stead all things which a returning officer is authorized or required to exercise, do, or execute in relation to the said election [*or* election] or which to the said office of returning officer in anywise appertain or belong.

Dated this _____ day of _____ 1894.
(Signed)

Returning Officer.

Specific
appointment.

The following is a form of a specific appointment :—

THE LOCAL GOVERNMENT ACT, 1894.

[Insert name of
parish, united
parishes, dis-
trict, or ward
to wit.] By virtue of the Local Government Act, 1894, and of every or any other power or authority enabling me in this behalf, I, _____, returning officer for the election of guardians [urban district councillors, or rural district and parish councillors] for the parish [united parishes, district, or ward] of _____, do hereby nominate, constitute, and appoint _____ of _____, my deputy, to attend at the

counting of the votes [*or specify the particular function or purpose for which the deputy is appointed*], given at the said election [*or elections*], and do depute and authorize him to exercise and perform all powers and duties, and to do and execute for me and in my stead all things which a returning officer is authorized or required to do or execute in relation to the premises, or which to the said office of returning officer, in relation to the said function and purpose, in anywise appertain or belong.

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Dated this day of 1894.
(Signed)

Returning Officer.

The person appointed deputy must be a "fit" person, and a fit person is one legally competent to perform the duties of the office to which he is appointed. It is submitted that the following are not "fit" persons, viz., a minor (see *Belfast*, B. & Aust. 555), a woman, whether married or single (see *Beresford-Hope v. Lady Sandhurst*, 23 Q. B. D. 78 ; *De Souza v. Cobden* (1891) 1 Q. B. 687) ; an habitual drunkard (see *ante*, p. 61), an idiot, lunatic, blind, deaf or dumb person. The returning officer should exercise every possible care in the selection of his deputies, as he may be made responsible for misfeasance of the deputy in his office (see *infra*).

A deputy returning officer shall have all the powers and duties of the returning officer in relation to the matters in respect of which he is appointed as deputy (G.O. r. 1, par 4 ; R.O. r. 1, par. 4 ; U.O. r. 1, par. 5). A deputy may do every act which his principal might do, for he has, in law, the whole power of his principal ; and, unlike an agent, who acts only in the name of his principal, a deputy may act either in his own name or in that of his principal (Salk. 95). But a deputy cannot delegate to another the authority to appoint such deputy (*Hughes v. Jones*, 1 B. & Ad. 388) ; and, therefore, cannot make a deputy ; he may, however, empower another to do a particular act (Salk. 96 ; *Parker v. Kett*, Ld. Raym. 658 ; *R. v. Gravesend, Mayor, etc. of*, 2 B. & C. 603), provided, of course, that such act be within the scope of his own legitimate authority.

A deputy is an officer at will (2 Keb. 742 ; 3 Vin. Abr. 189), even though appointed for life (Salk. 17, 18), and, therefore, his appointment may be revoked at the pleasure of the principal (see *Campbell v. Hewlitt*, 16 Q. B. 258).

A deputy is one who occupieth in right of another, and for whom regularly his superior shall answer. In this respect there is, however, a distinction between civil

How far
"respondent
superior"
applies.

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actions and criminal proceedings. If the deputy is not sufficient, the superior must answer for him in civil actions, but in criminal cases the deputy must answer for himself (2 Inst. 466; 2 Lev. 160); thus, for misfeasance in office, an action will lie against the deputy if he is a substantial officer, as well as against the principal (5 Burr. 2721; 3 Wils. 454; 2 Black. W. 910). Whatever care, therefore, the returning officer may exercise in the selection of his deputy, and however imperatively necessary his appointment may be, the deputy does not so replace the returning officer as entirely to relieve the latter from all responsibility.

Liabilities.

A deputy returning officer shall have all the liabilities of the returning officer in relation to the matters in respect of which he is appointed as deputy (G.O. r. 1, par. 4; R.O. r. 1, par. 4; U.O. r. 1, par. 5). He is therefore subject to the several liabilities and penalties mentioned, *ante*, p. 90.

Incapacities.

The incapacities of a deputy returning officer are the same as those of a returning officer (see *ante*, p. 90).

Remuneration.

The deputy returning officer should be paid a reasonable fee, which must not exceed any limit contained in the scale fixed by the county council or the Local Government Board, as the case may be (see L.G.A. s. 48, sub. 7).

Death of returning officer.

The death of the returning officer determines the appointments of his deputies. There is no provision enabling a deputy returning officer to continue in office, and to execute the same in the name of the deceased returning officer, as there is in the case of an undersheriff at a parliamentary election (50 & 51 Vict. c. 55, s. 25, sub. 1); or continuing his appointment, as in the case of the judges, notwithstanding the demise of the Queen (1 Geo. III. c. 23, s. 1; repealed by 42 & 43 Vict. c. 59).

NOTICE OF ELECTION.

Guardians.

Not later than Saturday, the 1st of December, 1894, the returning officer shall prepare and sign a notice of the election of guardians in the urban parishes in the poor law union, and shall cause public notice to be given of the same in each parish (G.O. r. 3).

The notice may be given before the 1st of December, 1894, if the returning officer thinks it desirable for any reason to do so, but must not be given later than that date. It may be given at any time up to midnight on Saturday, the 1st of December, 1894; if given after

that date, the election held thereunder may be declared void (*Howes v. Turner*, 1 C. P. D. 670; and see *Rye*, 1 P. R. & D. 112; *Seaford*, 3 Lud. 3; *Athlone*, B. & Arn. 122).

To enable him to "prepare" the notice, the returning officer must ascertain or decide upon—

1. The day of election.
2. The number of guardians to be elected.
3. The returning officer's office for the purposes of the election.

And the returning officer must also—

4. Provide and furnish his office, and the overseers, with forms of nomination paper.

Of these requirements in their order.

The day of the election of guardians in the year 1894 shall be Monday, the 17th of December, or such other day, not being earlier than Saturday, the 15th of that month, or later than Wednesday, the 19th of that month, as may, for special reasons, be fixed by the county council (G.O. r. 2, par. 1). Provided that, in any urban district other than a borough, the day of the election of guardians and of urban district councillors shall be the same (*ib.* par. 2). The returning officer must therefore ascertain from the clerk to the county council whether the latter have, for special reasons, fixed any day other than that fixed by the order, viz. Monday, the 17th of December, 1894. If the county council have made no such order, the day of election will be the last-named date, and the returning officer will fill up his notice of election accordingly. Election here means the poll day, not the last day on which nomination papers can be sent in (see G.O. r. 6).

The sufficiency of any "special reasons" advanced for changing the day of election from that primarily fixed by the G.O. (Monday, the 17th of December, 1894) is entirely for the county council; but, obviously, if they determine to fix some other day, they must do so in sufficient time to enable the returning officer to prepare, sign, and publish his notice of election on Saturday the 1st of December, 1894, at latest.

2. As to the number of candidates to be elected, see *ante*, p. 9. The returning officer should ascertain from the clerk of the county council whether any order has been made by the latter affecting the number of candi-

CHAP. V. dates to be elected at the election for which he is about to give notice.

3. Returning officer's office. 3. As to the returning officer's office for the purposes of the election, see *ante*, p. 90.

4. Provision of nomination papers. 4. The returning officer shall provide nomination papers, and shall furnish the overseers of the parish with a supply thereof (G.O. r. 5). Any parochial elector may obtain nomination papers from either the returning officer or the overseers free of charge (*ib.*). The form of nomination paper is set out in the notice of election (see *post*, p. 98). The returning officer is not, nor is any overseer, bound, at the request of any elector, to fill up a nomination paper, as is a town clerk at a municipal election (see M.C.A. sch. III. pt. II. r. 6); but the returning officer must fill up the blanks in the instructions for filling up nomination papers set out in the notice of election (*post*, p. 98). The foot-note to these instructions states that they form part of the nomination paper, and are therefore to be printed as part of the nomination paper whenever that paper is printed separately; but it is clear from the numeration of the succeeding paragraphs of the notice of election that the instructions as well as the form of nomination paper are to form part of that notice, and that the whole is to be printed and published whenever the notice of election is printed or published.

The number of nomination papers to be provided and furnished to the overseers, and at the returning officer's office, must depend upon the number of vacancies, the number of candidates expected to be nominated, and the number of parochial electors in the parish, united parishes, or wards; but must be amply sufficient for all reasonable requirements, as the parochial electors are entitled to obtain them at either place (the returning officer's office and the residence or office of the overseers) free of charge and as of right, and are not bound to seek them at both places, and any parochial elector is entitled to obtain nomination papers (not paper) and may therefore obtain any reasonable number that he may require. Moreover, the returning officer must not run the risk of the election being defeated, or the result thereof affected, by a failure in the provision of nomination papers.

No time is named, as from when, or between what hours, the returning officer and overseers are to supply nomination papers. They are not, it is submitted, bound

to supply nomination papers before the day on which the returning officer gives the notice of election; but both he and the overseers should be in a position to supply them to all electors who may apply for them on and from that day, and at all reasonable hours, up to and inclusive of the last day for sending in nominations, *i.e.* up to and inclusive of Wednesday, the 5th of December, 1894 (G.O. r. 6, and see *post*, p. 117). If asked, the returning officer and overseers should supply nomination papers by post.

No person other than a parochial elector is entitled to be supplied with nomination papers, either free of charge or on payment.

The signature of the returning officer to the notice may be printed (*2nd Sligo*, 1 P. R. & D. 211), or affixed by a stamp (*Bennet v. Brumfitt*, L. R. 3 C. P. 28; *Osgood v. Nelson*, 41 L. J. Q. B. 337; *Blades v. Lawrence*, L. R. 9 Q. B. 374). It is not necessary that every copy of the notice should be actually signed by the hand of the returning officer, but it would be prudent that he should sign by his own hands the original notice, or the copy sent to the printer to be printed (*2nd Sligo*, 1 P. R. & D. 211); and, of course, a stamped signature must be affixed only by him or by his authority (*Blades v. Lawrence*, L. R. 9 Q. B. 374).

The notice of election shall be in the following form, or in a form to the like effect (G.O. r. 3) :—

Union.

Election of Guardians for the several Parishes [United Parishes and Wards of Parishes, *as the case may be*] situate in the above-named Union, for which Guardians are to be elected.

NOTICE IS HEREBY GIVEN THAT—

- 1.* The day of election of Guardians for the said Parishes [United Parishes and Wards of Parishes, *as the case may be*] will be the day of December, 1894.
2. The number of Guardians to be elected for the said Parishes [United Parishes and Wards, *as the case may be*] is as follows † :—
8. Each candidate for election as a Guardian must be nominated in writing, and the nomination paper must be sent to me, so that it shall be received at (which is my office for the purposes of the election) not later than two o'clock in the afternoon of Wednesday, the 5th day of December, 1894.
4. A parochial elector must not sign more nomination papers than there are Guardians to be elected for the Parish [*or* United Parishes *or* Ward, *as the case may be*], and he must not sign a nomination paper

* If the day of election is not the same for all the Parishes, United Parishes, and Wards adapt form accordingly.

† Insert here the names of the Parishes, United Parishes, and Wards of Parishes, with the number of Guardians to be elected for each. A tabular form may be used if preferred.

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for any Parish or United Parishes or Ward unless he is registered as a parochial elector in respect of a qualification therein. Neither must be sign nomination papers for more than one Parish [*or* group of United Parishes *or* Ward] in the Union.

3. Forms of nomination paper may be obtained, free of charge, either from me at the above-named office, or from the Overseers of the Parish [*or* either of the United Parishes] for which a nomination is proposed to be made.
6. The nomination paper must be in the following form, or in a form to the like effect :—

FORM OF NOMINATION PAPER.

Union.

Election of Guardians for the Parish of [*or* for the United Parishes of , *or* for the Ward of the Parish of] in the year 1894.

We, the undersigned, being respectively parochial electors of the said Parish [*or* United Parishes *or* Ward], do hereby nominate the under-mentioned person as a candidate at the said Election.

Names of Candidate.		Place of Abode.	Description.	How qualified (specify qualification according to direction in Instruction 5).
Surname.	Other Names in full.			
1.	2.	3.	4.	5.

Signature of Proposer _____
Place of Abode _____

Signature of Seconder _____
Place of Abode _____

* These Instructions form part of the Nomination Paper.

*Instructions for filling up Nomination Paper.**

1. The surname of only one candidate for election must be inserted in Column 1.
2. The other names of the candidate must be inserted in full in Column 2.
3. Insert in Column 3 the place of abode of the candidate.
4. In Column 4 state the occupation, if any, of the candidate. If the candidate has no occupation, insert some such description as "gentleman," or "married woman," or "spinster," or "widow," as the case may be.
5. If the candidate is a parochial elector of some Parish within the

Union (that is, if his or her name is registered in the Register of parochial electors of such Parish) insert in Column 5 "Parochial Elector of Parish of . ." If the candidate is not a parochial elector of some Parish in the Union, but he or she has, during the whole of the twelve months preceding the election, resided in the Union, insert in Column 5 "Residence." If, in the case of a Parish or of United Parishes wholly or partly situate within the area of a borough, the candidate is qualified to be elected a councillor for that borough, insert in Column 5 "Qualified to be elected Councillor of Borough of . ." If the candidate has more than one of these qualifications, it will be sufficient to insert in Column 5 one of his or her qualifications, but more may be inserted.

6.—(1.) The paper must be signed by two parochial electors of the Parish [*or* United Parishes *or* Ward], and no more; by one as proposer, and by the other as seconder. The places of abode of the Proposer and Secunder must also be inserted.

(2.) A parochial elector must not sign more than one nomination paper than there are Guardians to be elected for the Parish [*or* United Parishes *or* Ward], and he must not sign a nomination paper for any Parish [*or* United Parishes *or* Ward] unless he is registered as a parochial elector in respect of a qualification therein. Neither must he sign a nomination paper in more than one Parish [*or* group of United Parishes *or* Ward] in the Union.

7. Not later than Friday, the 7th day of December, 1894, I shall cause a copy of a statement containing the names, places of abode, and descriptions of the persons nominated for the office of Guardian for the said Parishes [United Parishes and Wards], and also containing a notice of my decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not, to be suspended in the Board Room of the Guardians of the Union in which the said Parishes [United Parishes and Wards] are situate, and another to be affixed on the principal external gate or door of every Workhouse of the Union [and of the building in which the Board Room of the Guardians is comprised].*

8. Any candidate nominated for election may not later than four o'clock in the afternoon of Friday, the 7th day of December, 1894, withdraw his candidature by delivering or causing to be delivered at my office for the purposes of the election a notice in writing of such withdrawal signed by him.

* If the Board Room is at the Workhouse, omit these words.

9.† If the number of candidates who are validly nominated for any Parish [United Parishes *or* Ward], and whose candidature is not withdrawn, exceeds that of the persons to be elected, a poll will be taken on the day of December, 1894, of which due notice will be given.

† If the day of election is not the same for all the Parishes, United Parishes, and Wards, adapt form accordingly.

Dated this day of , 1894.

Returning Officer.

Office for purpose of election.

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Publication.

The returning officer shall cause public notice to be given of the notice of election in each urban parish in the union (G.O. r. 3). Any public notice required by the G.O. shall be given by posting the same on or near the principal door of each church and chapel in the parish, and in some conspicuous place or places within the parish (G.O. r. 33). The expression "each church and chapel" is not confined to those of the Church of England, and the notice should therefore be posted on or near to the principal door of each dissenting place of worship within the parish. The conspicuous place or places in which the notice shall also be posted should be so selected as to give publicity to all sections and classes of the population in the parish, united parishes, or ward for which the election is to be held.

The name and address of the printer and publisher shall appear upon the face of every bill, placard, or poster, used for giving the notice (M.E.C.I.P.A. s. 14 ; and see *post*, p. 228).

As to the meaning of "urban parish," see *ante*, p. 3.

Misnomer or inaccurate description.

No misnomer, or inaccurate description of any person or place named in any notice of election shall hinder the full operation of such paper with respect to that person or place, provided the description of that person or place is such as to be commonly understood (G.O. r. 35). As to the meaning of "commonly understood," see *R. v. Coward*, 16 Q. B. 819 ; *R. v. Gregory*, 1 E. & B. 600 ; *R. v. Spratley*, 6 E. & B. 363 ; *R. v. Tugwell*, L. R. 3 Q. B. 704 ; *Moorhouse v. Linney*, 15 Q. B. D. 273 ; *Harding v. Cornwell*, 60 L. T. 959.

Non-compliance or mistake.

No election shall be declared invalid by reason of a non-compliance with the rules contained in B.A. sch. I., or in the G.O., or any mistake in the use of the forms in B.A. sch. II., or in the said G.O., if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of the B.A., and of the L.G.A., and that such non-compliance or mistake did not affect the result of the election (B.A. s. 13).

Rural district councillors.

Not later than Saturday the 1st of December, 1894, the returning officer shall, for each rural district or part of a rural district comprised in the poor law union in which the parish is situate or with which it is co-exten-

sive, prepare and sign a notice of the election of rural district councillors in the parishes in the rural district or part of a rural district (R.O. r. 3, par. 1). This provision is substantially the same as that relating to the notice of election of guardians, which see, *ante*, p. 94.

To enable him to "prepare" the notice, the returning officer must ascertain or decide upon the same matters as in an election of guardians (see *ante*, p. 95).

1. The day of the election of rural district councillors in the parish in the year 1894, shall be Monday, the 17th of December in that year, or such other day, not being earlier than Saturday, the 15th of December, 1894, or later than Wednesday, the 19th of that month, as may, for special reasons, be fixed by the county council (R.O. r. 2, par. 1). Provided that the day of election of rural district councillors in the parish, and the day of the poll for the election of any parish councillors to be elected at the same date in the parish shall be the same (*ib.* par. 2). This provision again is substantially the same as that relating to the day of election of guardians, which see, *ante*, p. 95.

2. As to the number of candidates to be elected, see *ante*, p. 21. The returning officer should ascertain from the clerk of the county council whether any order has been made by the latter affecting the number of candidates to be elected at the election for which he is about to give notice.

3. As to the returning officer's office for the purposes of the election, see *ante*, p. 90.

The returning officer shall provide nomination papers, and shall furnish the overseers of the parish with a supply thereof (R.O. r. 5). Any parochial elector may obtain nomination papers from either the returning officer or the overseers, free of charge (*ib.*). This provision is in identical terms with that for an election of guardians, as to which see *ante*, p. 96.

As to the signature of the notice, see *ante*, p. 97.

The notice of election shall be in the following form, or in a form to the like effect (R.O. r. 3, par. 3):—

Rural district of	
Election of Rural District Councillors	for the several Parishes
[United Parishes and Wards of Parishes, as the case may be]	in the Union
above-named Rural District	[*which are situate in the Poor Law
Union of	].

Signature.
Form.

* If the Rural District is wholly comprised in one Poor Law Union omit these words.

† If the day of election is not the same

NOTICE IS HEREBY GIVEN THAT—

1.† The day of election of Rural District Councillors for the said for all the

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1. Day of election.

2. Number of candidates.

3. Returning officer's office.

4. Provision of nomination papers.

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Parishes, United Parishes, and Wards, adapt form accordingly.

* Insert here the names of the Parishes, United Parishes, and Wards of Parishes, with the number of Rural District Councillors to be elected for each. A tabular form may be used if preferred.

Parishes [United Parishes and Wards of Parishes *as the case may be*] will be _____, the _____ day of December, 1894.

2. The number of Rural District Councillors to be elected for the said Parishes [United Parishes and Wards, *as the case may be*] is as follows * :—
3. Each candidate for election as a Rural District Councillor must be nominated in writing, and the nomination paper must be sent to me, so that it shall be received at _____ (which is my office for the purposes of the election) not later than two o'clock in the afternoon of Wednesday, the 5th day of December, 1894.
4. A parochial elector must not sign more nomination papers than there are Rural District Councillors to be elected for the Parish [*or* United Parishes *or* Ward, *as the case may be*], and he must not sign a nomination paper for any Parish or United Parishes or Ward unless he is registered as a parochial elector in respect of a qualification therein. Neither must he sign nomination papers for more than one Parish [*or* group of United Parishes *or* Ward] in the Rural District.
5. Forms of nomination paper may be obtained, free of charge, either from me at the above-named office, or from the Overseers of the Parish [*or* either of the United Parishes] for which a nomination is proposed to be made.
6. The nomination paper must be in the following form, or in a form to the like effect :—

FORM OF NOMINATION PAPER.

Rural district of _____.

Election of rural district councillors _____ for the Parish of _____ [*or* for the United Parishes of _____, *or* for the _____ Ward of the Parish of _____] in the year 1894.

We, the undersigned, being respectively parochial electors of the said Parish [*or* United Parishes *or* Ward], do hereby nominate the under-mentioned person as a candidate at the said Election.

Names of Candidate.		Place of Abode.	Description.	How qualified (specify qualification according to direction in Instruction 5).
Surname.	Other Names in full.			
1.	2.	3.	4.	5.

Signature of Proposer _____

Place of Abode _____

Signature of Seconder _____

Place of Abode _____

*Instructions for filling up Nomination Paper.**

CHAP. V.

1. The surname of only one candidate for election must be inserted in Column 1.
2. The other names of the candidate must be inserted in full in Column 2.
3. Insert in Column 3 the place of abode of the candidate.
4. In Column 4 state the occupation, if any, of the candidate. If the candidate has no occupation, insert some such description as "gentleman," or "married woman," or "spinster," or "widow," as the case may be.
5. If the candidate is a parochial elector of some Parish within the Union in which the Rural District or the part of the Rural District comprising the Parish is situate (that is, if his or her name is registered in the Register of parochial electors of such Parish) insert in Column 5 "Parochial Elector of Parish of" If the candidate is not a parochial elector of some Parish in that Union, but he or she has, during the whole of the twelve months preceding the election, resided in the Union, insert in Column 5 "Residence." If the candidate is not a parochial elector of some Parish within the Union, and has not during the whole of the twelve months preceding the election resided in the Union, but he is qualified to be elected a councillor for some municipal borough wholly or partly situate in the Union, insert in Column 5 "Qualified to be elected Councillor of Borough of" If the candidate has more than one of these qualifications, it will be sufficient to insert in Column 5 one of his or her qualifications, but more may be inserted.
- 6.—(1.) The paper must be signed by two parochial electors of the Parish [*or* United Parishes *or* Ward], and no more ; by one as proposer, and by the other as seconder. The places of abode of the Proposer and Secunder must also be inserted.

(2.) A parochial elector must not sign more nomination papers than there are Rural District Councillors to be elected for the Parish [*or* United Parishes, *or* Ward], and he must not sign a nomination paper for any Parish [*or* United Parishes, *or* Ward] unless he is registered as a parochial elector in respect of a qualification therein. Neither must he sign a nomination paper in more than one Parish [*or* group of United Parishes *or* Ward] in the Rural District.

-
7. Not later than Friday, the 7th day of December, 1894, I shall cause a copy of a statement containing the names, places of abode and descriptions of the persons nominated for the office of Rural District Councillor for the said Parishes [United Parishes and Wards], and also containing a notice of my decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not, to be suspended in the Board Room of the Guardians of the Union, in which the said Parishes [United Parishes and Wards] are situate, and another to be affixed on the principal external gate or door of every Workhouse of the Union [and of the building in which the Board Room of the Guardians is comprised.]*

8. Any candidate nominated for election may not later than four o'clock on the afternoon of Friday, the 7th day of December, 1894, withdraw his candidature by delivering or causing to be delivered at my office for the purposes of the election a notice in writing of such withdrawal signed by him.

* These Instructions form part of the Nomination Paper.

* If the Board Room is at the Workhouse omit these words.

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* If the day of the election is not the same for all the Parishes, United Parishes, and Wards, adapt form accordingly.

9.* If the number of candidates who are validly nominated for any Parish [United Parishes or Ward], and whose candidature is not withdrawn, exceeds that of the persons to be elected, a poll will be taken on the day of December, 1894, of which due notice will be given.

Dated this day of , 1894.

Returning Officer.

Office for purpose of election.

Publication.

The returning officer shall cause printed copies of the notice to be affixed on or near to the principal door of each church and chapel in each parish in the rural district or part of the rural district and also to be posted in some conspicuous place or places within the parish (R.O. r. 3, par. 2). This provision is the same as that which applies in an election of guardians, as to which see *ante*, p. 100.

Misnomer or inaccurate description, non-compliance or mistake.

The same provisions as to misnomer or inaccurate description (R.O. r. 34), and as to non-compliance or mistake (B.A. s. 13) apply as in the case of an election of guardians (see *ante*, p. 100).

Urban district councillors.

Not later than Saturday, the 1st of December, 1894, the returning officer shall prepare and sign a notice of the election, and shall cause public notice to be given of the same in the district (U.O. r. 3). This notice is substantially the same as that relating to the notice of election of guardians, as to which see *ante*, p. 94.

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To enable him to "prepare" the notice, the returning officer must ascertain and decide on the same matters as in an election of guardians (see *ante*, p. 95).

1. Day of election.

1. The day of the election of urban district councillors in the year 1894, shall be Monday, the 17th of December in that year, or such other day, not being earlier than Saturday, the 15th of that month, or later than Wednesday, the 19th of that month, as may, for special reasons, be fixed by the county council (U.O. r. 2, par. 1). Provided that, in any urban district the day of the election of urban district councillors and guardians shall be the same (*ib.* par. 2). This provision is precisely the same as that relating to the election of guardians (see *ante*, p. 95).

2. Number of candidates.

2. As to the number of candidates to be elected, see

ante, p. 27. The returning officer should make the inquiry of the clerk of the county council recommended, *ante*, p. 101.

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3. Returning officer's office.

3. As to the returning officer's office for the purposes of the election, see *ante*, p. 90.

4. The returning officer shall provide nomination papers, and any parochial elector may obtain nomination papers from him, free of charge (U.O. r. 5). The only difference between this provision and that relating to the election of guardians is that in the former the returning officer is not, while in the latter he is, required to furnish the overseers with a supply of nomination papers. In all other respects the two provisions are the same, and the subject is fully discussed, *ante*, p. 96.

4. Provision of nomination papers.

As to the returning officer's signature to the notice of election, see *ante*, p. 97.

The notice of election shall be in the following form, or in a form to the like effect (U.O. r. 3):—

Urban district of .
Election of Urban district councillors
the above-named District].

*[for the several Wards in

* If the Urban District is not divided into Wards, omit these words.

NOTICE IS HEREBY GIVEN THAT—

1. The day of election of Urban District Councillors for the said District [or Wards, as the case may be] will be , the day of December, 1894.
2. The number of Urban District Councillors to be elected for the said District [or Wards, as the case may be] is†
3. Each candidate for election as an Urban District Councillor must be nominated in writing, and the nomination paper must be sent to me, so that it shall be received at (which is my office for the purposes of the election) not later than two o'clock in the afternoon of Wednesday, the 5th day of December, 1894.
4. A parochial elector must not sign more nomination papers than there are Urban District Councillors to be elected for the District [or Ward, as the case may be], and he must not sign a nomination paper for the District [or for any Ward thereof], unless he is registered as a parochial elector in respect of a qualification therein. [Neither must he sign nomination papers for more than one Ward in the District.‡]
5. Forms of nomination paper may be obtained, free of charge, from me at the above-named office.
6. The nomination paper must be in the following form, or in a form to the like effect:—

† If the District is divided into Wards, insert the names of the Wards, with the number of Urban District Councillors to be elected for each. A tabular form may be used if preferred.

‡ If the District is not divided into Wards, omit these words.

FORM OF NOMINATION PAPER.

Urban District of .
Election of Urban District Councillors for the above District [or for the Ward of the above District] in the year 1894.
We, the undersigned, being respectively parochial electors of the said

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District [*or* Ward], do hereby nominate the under-mentioned person as a candidate at the said Election.

Names of Candidate.		Place of Abode.	Description	How qualified (specify qualification according to direction in Instruction 5).
Surname.	Other Names in full.			
1.	2.	3.	4.	5.

Signature of Proposer _____
Place of Abode _____

Signature of Seconder _____
Place of Abode _____

* These Instructions form part of the Nomination Paper.

*Instructions for filling up Nomination Paper.**

1. The surname of only one candidate for election must be inserted in Column 1.
2. The other names of the candidate must be inserted in full in Column 2.
3. Insert in Column 3 the place of abode of the candidate.
4. In Column 4 state the occupation, if any, of the candidate. If the candidate has no occupation, insert some such description as "gentleman," or "married woman," or "spinster," or "widow," as the case may be.
5. If the candidate is a parochial elector of some Parish within the District (that is, if his or her name is registered in the Register of parochial electors of such Parish) insert in Column 5 "Parochial Elector of Parish of _____." If the candidate is not a parochial elector of some Parish in the District, but he or she has, during the whole of the twelve months preceding the election, resided in the District, insert in Column 5 "Residence." If the candidate has both these qualifications, it will be sufficient to insert in Column 5 one of his or her qualifications, but both may be inserted.
- 6.—(1.) The paper must be signed by two parochial electors of the District [*or* Ward], and no more; by one as Proposer, and by the other as Seconder. The places of abode of the Proposer and Seconder must also be inserted.

(2.) A parochial elector must not sign more nomination papers than there are Urban District Councillors to be elected for the District [*or* Ward], and he must not sign a nomination paper for the District [*or* Ward] unless he is registered as a parochial elector in respect of a qualification therein. [Neither must he sign a nomination paper in more than one Ward in the District.]

7. Not later than Friday, the 7th day of December, 1894, I shall cause a copy of a statement containing the names, places of abode, and descriptions of the persons nominated for the office of Urban District Councillor for the said [District *or* Wards], and also containing a notice of my decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not, to be [*suspended in the Board Room of the Urban Sanitary Authority, and another to be] affixed on the principal external gate or door of the offices of the Urban Sanitary Authority.†

8. Any candidate nominated for election may not later than four o'clock on the afternoon of Friday, the 7th day of December, 1894, withdraw his candidature by delivering or causing to be delivered at my office for the purposes of the election a notice in writing of such withdrawal signed by him.

9. If the number of candidates who are validly nominated for the District [or any Ward], and whose candidature is not withdrawn, exceeds that of the persons to be elected, a poll will be taken on the day of December, 1894, of which due notice will be given.

Dated this day of , 1894.

Returning Officer.

Office for purpose of election.

The returning officer shall cause public notice to be given of the notice of election in the district (U.O. r. 3). The notice shall be posted on or near the principal door of each church and chapel in the district, and in some conspicuous place or places within the district (*ib.* r. 30, and see *ante*, p. 100).

The same provisions as to misnomer or inaccurate description (U.O. r. 32), and as to non-compliance or mistake (B.A. s. 13) apply as in the case of an election of guardians (see *ante*, p. 100).

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* If there is no such Board Room omit these words.

† If there are no such offices, substitute some conspicuous place or places within the District or Wards.

Publication.

Misnomer or inaccurate description, non-compliance or mistake.

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A.—GUARDIANS.

The M.C.A. as adapted and altered by G.O. r. 26, is applied to the election of guardians by L.G.A. s. 48, sub. 3. NOMINATION PAPERS.

Each candidate for election as a guardian shall be nominated in writing (L.G.A. s. 48, sub. 2 (i.) ; G.O. r. 4, par. 1). As to what "writing" includes, see *ante*, p. 91. Shall be in writing.

Nomination papers are obtainable from the returning officer or the overseers by any parochial elector as of right and free of charge (G.O. r. 5, and see *ante*, p. 96). The parochial electors are thus apparently bound to use an official nomination paper obtained from one of the public officers above mentioned. Each parochial elector is entitled to obtain nomination papers (not paper), and may therefore obtain any reasonable number that he may require. Obtaining nomination papers.

The nomination paper shall state the name of the parish or other area for which the candidate is nominated, the surname and other name or names in full of the candidate, and his place of abode and description, and whether he is qualified as a parochial elector of some parish within the poor law union, or by having during the whole of the twelve months preceding the election resided in the union, or, in the case of a parish or united parishes wholly or partly situate within the area of a borough, by being qualified to be elected a councillor for that borough (G.O. r. 4, par. 2). Contents.

The nomination paper must be fully filled up before it is signed by either proposer or seconder (see *Harmon v. Park*, 7 Q. B. D. 369). The form given in the G.O. gives title and date, but if these are not properly filled Filling up.

CHAP. VI. — up, the nomination is nevertheless not necessarily bad on that account (see *Marton v. Gorrill*, 23 Q. B. D. 139). The name of the parish or other area for which the candidate is nominated must however be stated, either in the title or elsewhere on the face of the paper. This name should be taken from the notice of election, so as to correspond therewith.

Candidate's
surname.

The nomination paper shall state the surname of the candidate (G.O. r. 4, par. 2). A man's surname or surname is his family name ; that part of his name which is not given to him in baptism (*Wharton's Law Lexicon*). Surnames were unknown in England before the Conquest, and were not in common use until the twelfth century (*Petersd. Abr.* vol. v. 513) ; they were originally derived from birthplaces, stations in life, callings, exploits, or personal characteristics ; and were written above, and not after, baptismal names (*ib.* ; *Poph.* 57 ; and see *Barlow v. Bateman*, 3 P. Wms. 65). A man cannot have two baptismal names (*R. v. Newman*, 1 Ld. Raym. 562), but he may have divers surnames at divers times (*Co. Litt.* 3 a ; *Barlow v. Bateman*, 3 P. Wms. 65) ; he may change his surname, and by repute acquire a new or additional surname or surnames, which will then supersede the original name (*Frankland v. Nicholson*, 3 M. & S. 260).

A new or additional surname must be *bonâ fide* and publicly assumed ; and when so assumed, it is compulsory on the courts to recognise it (*R. v. Billingham*, 3 M. & S. 250 ; and see *ex parte Benthall*, 6 M. & G. 722). The usual mode in which this is now done is by executing and enrolling in the central office of the Supreme Court of Judicature a deed poll, and by inserting advertisements in the public newspapers (*Davidson's Conveyancing*, vol. III. p. 360 n.). No Act of Parliament, or royal licence, is necessary to legalise a change of surname (*Barlow v. Bateman*, 3 P. Wms. 65).

An illegitimate child usually takes the surname of his mother, but this is not his name until he has acquired it by reputation (*R. v. Clark*, Russ. & R. 358 ; *R. v. Smith*, 1 Moody C. C. 402 ; *R. v. Waters*, *ib.* 457 ; 7 C. & P. 250 ; *R. v. Evans*, 8 C. & P. 765 ; *R. v. Stroud*, 1 C. & Kir. 187) ; such a child is *quasi nullius filius*, and can have no name or reputation as soon as he is born (*Co. Litt.* 3 b).

The names of a person who has never been christened

are surnames only (*R. v. Chester, Bishop of*, 1 Ld. Raym. 305). CHAP. VI

In the case of a compound surname, it is usual, and seems proper, to insert as the surname all the names forming the compound surname, and to place first the first name of the compound surname: thus, Smith-Jones should be so stated, and not as Jones, Smith.

The nomination paper shall also state the other name or names in full of the candidate (G.O. r. 4, par 2). A person's "other name or names" are *primâ facie* the names given to him on registration of his birth, or on baptism; but these, as well as his surname, may have since then been altered or added to, and it is a question of fact in each case as to what are, at any given moment, a person's surname and other name or names. Other name
or names

A man's registered name is that mentioned in the register of his birth; his birth may, however, be well registered without his christian or baptismal name (see 6 & 7 Will. IV. c. 86, s. 17, and sch. A), and the latter name may be given, or altered, and registered within twelve months next after the registration of the birth (37 & 38 Vict. c. 88, s. 8). The birth of an illegitimate child is registered without the name of the father, unless at the joint request of the mother and father, and on the latter as well as the former signing the register (*ib.* s. 7).

A man's baptismal or christian name is the name given to him at the font as distinct from his surname, and it has been said from the bench that a christian name may consist of a single letter (Wharton's Law Lexicon, 8th ed.), as is often the case with citizens of the United States of America. This name may be registered within twelve months next after the registration of the birth (37 & 38 Vict. c. 88, s. 8). A man can never have any other baptismal name than that given to him at the font; but he may change his christian name, or acquire a new or additional christian name, in the same manner as with a surname (*R. v. Billingham*, 3 M. & S. 250, and see *ante*, p. 110). All the baptismal names form but one christian name (*Pougett v. Tomkyns*, 3 M. & S. 263; and see *Jones v. Macquillin*, 5 T. R. 195).

A person whose birth was registered without a name (see *supra*), and who has never been christened or baptised, and who has not acquired a name by reputation, may, it has been said, be described as of name unknown (*R. v. Smith*, 1 Moody C. C. 402).

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The candidate's other name or names must be stated in the nomination paper in full, and should be his true present names, and where there is a doubt as to any of his names, it is best to give both his supposed legal name and also his reputed name; thus, A. C., commonly known as A. B. C., or A. B. C., commonly known as A. C. The true name is that which precedes, not that which follows, as *alias dictus* (*R. v. Severn*, Say, 279). All the christian names of the candidate should be set out in full, initials to represent a christian name will not suffice (*Mather v. Brown*, 1 C. P. D. 596); but a contraction of a christian name which is well known, and in ordinary use as representing that name (such as "Wm." for William) is a sufficient statement of such christian name (see *R. v. Bradley*, 3 E. & E. 634; *Henry v. Armitage*, 12 Q. B. D. 257; *Moorhouse v. Linney*, 15 Q. B. D. 279). If the candidate is a peer, or is commonly known by some title, he may be described by his title as if it were his surname (see "Merton" in the form of ballot paper, *post*, p. 180); a title of dignity is part of a man's name as much as a christian name (*R. v. Chester, Bishop of*, 1 Ld. Raym. 292).

Abode.

The nomination paper shall also state the place of abode of the candidate (G.O. r. 4, par. 2). A person's "abode" within the meaning of this statute is his residence; *i.e.* the place where he lives with his family and sleeps at night, and not his place of business, or one of his several places of business (*R. v. Hammond*, 17 Q. B. 772; *Allen v. Greensill*, 4 M. G. & S. 100; and see *Maybury v. Mudie*, 5 M. G. & S. 283). The object of the rule is to give one place of abode (the candidate's residence), by which he can be easily identified, and not to give the electors a choice of one of several places (the candidate's places of business) which they may think fit to select, and at which the candidate may be more or less well known (*R. v. Hammond*, 17 Q. B. 781). But where a person resides during part of the week, month, or year in one place, and during other part in another place each would seem to be his abode within the above rule, for a person can have two residences, although he has his family in one only (*Bond v. St. George, Hanover Square, Overseers of*, L. R. 6 C. P. 312; *R. v. Exeter, Mayor of*, L. R. 4 Q. B. 110).

The true place of abode should be given without regard to whether it is so stated in the register (*R. v.*

Deighton, 5 Q. B. 896; *R. v. Coward*, 16 Q. B. 819; *R. v. Avery*, 18 Q. B. 576; *Soper v. Basingstoke, Mayor of*, 2 C. P. D. 440). It would seem that if a wrong place of abode is given the nomination paper is bad, even though the statement corresponds with that on the register (*R. v. Coward*, 6 Q. B. 819; *R. v. Hammond*, 17 Q. B. 772; *R. v. Deighton*, 5 Q. B. 896); and that if, on the other hand, the true place of abode is given, though with some inaccuracy, but not so as to mislead anyone, the nomination paper is good (*R. v. Spratley*, 6 E. & B. 363; *R. v. Gregory*, 1 E. & B. 600; *Soper v. Basingstoke, Mayor of*, 2 C. P. D. 440). The abode should be fully stated, and therefore the name or number of the house and the name of the street, as well as the name of the village or place should be given; though a nomination paper is probably not bad for omitting any of these particulars, if it give sufficient information to enable the candidate to be identified.

There are decisions under other statutes in which it has been held that "abode" does not necessarily mean the place where a person sleeps, and that his place of business is a sufficient description of his abode (*Haslope v. Thorne*, 1 M. & S. 103; and see *Ablett v. Basham*, 5 E. & B. 1019; *Blackwell v. England*, 8 E. & B. 541; *Hewer v. Cox*, 3 E. & E. 428; *Greenham v. Child*, 24 Q. B. 29); that a man may have two places of abode, one where he abides at night, and another where he abides by day (*Mason v. Bibby*, 2 H. & C. 883); and that a person may fairly be said to reside where he is daily to be found (*Ex parte Brewell, re Bowie*, 43 L. T. 580). But these statutes are not *in pari materia* with the L.G.A., and are not, it is submitted, authorities against the view above stated.

The nomination paper shall state the description of the candidate (G.O. r. 4, par. 2). "Description" is the act of delineating or expressing a person by perceptible qualities (Latham's Johnson's Dict.); a setting forth of the nature or condition of a person (see Phillip's Dict.); that which tells what he is (*R. v. Tugwell*, L. R. 3 Q. B. 704). Where used, as here, in conjunction with "name" and "abode," it means something different from name or place of abode, viz., the rank, profession, trade or occupation, if the candidate has any, or his style if he has no occupation (per Field, Q.C., in *R. v. Tugwell*, L. R. 3 Q. B. at p. 712; and per Patteson, J., in *R. v. Coward*,

CHAP. VI. 16 Q. B. 826). If there be a total omission of a candidate's description, the nomination paper is bad (*R. v. Tugwell*, L. R. 3 Q. B. 712).

"Rank" is a degree of dignity; "profession" is a person's calling, vocation, or known employment, and is used especially of divinity, physic, and law; and "calling" is a person's trade, proper station, or employment (*Latham's Johnson's Dict.*). The civil state consists of the nobility and the commonalty (1 Black. Comm. 396). The degrees of nobility now in use are dukes, marquesses, earls, viscounts, and barons (*ib.*); the degrees of dignity next beneath a peer are knights and baronets (*ib.* 403); esquires and gentlemen are only names of worship (*ib.* 405); and the rest of the commonalty are tradesmen, artificers, and labourers (*ib.* 407). It is unsettled as to what constitutes the distinction between esquire and gentlemen, but the following are the principal sorts of esquires: the eldest sons of knights and their eldest sons; the eldest sons of younger sons of peers and their eldest sons; esquires by virtue of their offices, as justices of the peace, and others who bear an office of trust under the crown, and who are styled esquires by the king in their commissions and appointments; and the esquires of Knights of the Bath, each of whom appoints three at his installation (*ib.* 406). If the candidate has no occupation, some such description as "gentleman," or "married woman," or "spinster," or "widow" may be inserted (see the instructions on the form of nomination paper, *ante*, p. 98).

Qualification. The nomination paper shall also state whether the candidate is qualified as a parochial elector of some parish within the poor law union, or by having, during the whole of the twelve months preceding the election, resided in the union, or, in the case of a parish or united parishes wholly or partly situate within the area of a borough, by being qualified to be elected a councillor for that borough (G.O. 1, 4, par. 2); as to these qualifications, see *ante*, p. 32. The candidate or his proposer or seconder filling up the nomination paper should select that one of these three qualifications which is believed to be least open to criticism or attack. When the candidate possesses more than one of these qualifications, it will be sufficient to insert one of his or her qualifications, but more may be inserted (see the instructions on the form of nomination paper, *ante*, p. 98), and

it is desirable to insert more than one. The statement is to be made by inserting the words "Parochial Elector of parish of _____," "Residence," or "Qualified to be elected Councillor of Borough of _____." (See the instructions, *ante*, p. 98.)

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No misnomer, or inaccurate description of any person or place named in any nomination paper shall hinder the full operation of such paper with respect to that person or place, provided the description of that person or place is such as to be commonly understood (G.O. r. 35). As to the meaning of "commonly understood," see *R. v. Coward*, 16 Q. B. 819; *R. v. Gregory*, 1 E. & B. 600; *R. v. Spratley*, 6 E. & B. 363; *R. v. Tugwell*, L. R. 3 Q. B. 704; *Moorhouse v. Linney*, 15 Q. B. D. 273; *Harding v. Cornwell*, 60 L. T. 959.

Misnomer or inaccurate description.

The nomination paper shall be in the form set out in the notice in the notice of election (form No. 1 in G.O. sch. I), or in a form to the like effect (G.O. r. 4, par. 2). The form is given, *ante*, p. 98.

Form.

The name of more than one candidate shall not be inserted in any one nomination paper (G.O. r. 4, par. 3).

Separate nomination papers essential.

The nomination paper shall be signed by two parochial electors of the parish or other area, as proposer and seconder, and no more (L.G.A. s. 48, sub. 2 (i), and shall state their respective places of abode (G.O. r. 4, par. 2). As to what is "signature," see *post*, p. 116; as to who are parochial electors, see *ante*, p. 68; and as to what is a person's place of abode, see *ante*, p. 112.

Signature.

A parochial elector shall not sign a nomination paper for any parish or other area unless he is registered as a parochial elector in respect of a qualification therein (G.O. r. 4, par. 4); and a person who, though on the register as a parochial elector, is prohibited from voting (see *ante*, p. 72), is probably also prohibited from nominating, for nomination is the voice or vote of the electors, and may become the election if no other candidate is nominated (see *R. v. Parkinson*, L. R. 3 Q. B. 11). A candidate, being a parochial elector, may, if it is submitted, sign the nomination paper of another candidate.

A parochial elector may sign as many nomination papers as there are vacancies to be filled, but shall not sign more nomination papers than there are guardians to be elected for the parish or other area in the poor law union for which the election is to be held (G.O. r. 4,

Number that may be signed.

CHAP. VI. par. 4). Neither shall he sign nomination papers for more than one parish or other area in the union (L.G.A. s. 48, sub. 2 (ii.); G.O. r. 4, par. 4).

If any parochial elector shall sign nomination papers for more than one parish or other area in the union, or shall sign a larger number of nomination papers than the number of guardians to be elected for the parish or other area, such of the nomination papers signed by him as relate to the first parish or other area for which a nomination paper signed by him is received by the returning officer shall alone be valid, and of the nomination papers signed by him which relate to that parish or other area such as are first received by the returning officer up to the number of guardians to be so elected shall alone be valid: provided that, for the purposes of this paragraph, nomination papers not properly filled up and signed shall be excluded (G.O. r. 4, par. 5). The order in which the nomination papers are received by the returning officer is recorded by the numbers which he places thereon (*ib.* r. 27, par. 1, *post*, 118).

What is
signature.

The signature of the proposer and second need not be written in full, but may be their ordinary signatures (*Gothard v. Clarke*, 5 C. P. D. 262); but such signatures must be affixed personally, and not by agent or per procuration (see *Toms v. Cuming*, 7 M. & G. 88; 1 Lutw. 200). The initials only of a christian name are sufficient (*R. v. Hartlepool, Mayor, etc., of*, 2 L. M. & P. 666; *R. v. Avery*, 18 Q. B. 576; *Bowden v. Besley*, 21 Q. B. D. 309).

The statute and rules do not require that the signatures shall identically correspond with the entries of the name in the register (see *Bowden v. Besley*, 21 Q. B. D. 309); but it is, nevertheless, desirable that the signatures should agree with the electors' names as entered on the register; for if an elector, whose real name is Charles Arthur Burman, be entered on the register as Charles Burman, and he signs as Charles Arthur Burman, the nomination paper is apparently bad, as the discrepancy suggests that there are two persons, one called Charles Burman and another called Charles Arthur Burman, and a nomination paper so signed has been held to be bad, and may certainly be rejected by the chairman of the meeting (*Moorhouse v. Linney*, 15 Q. B. D. 273; but see *Bowden v. Besley*, 21 Q. B. D. 309; *Harding v. Cornwell*, 60 L. T. 959). But the addition of "junr." to the name

of a signatory, and which addition forms part of his ordinary signature, but does not appear on the register, does not render the nomination bad (*Gledhill v. Crowther*, 23 Q. B. D. 136); nor yet the signature "Henry D. Davenport" of a person whose full name is Henry Devereux Davenport, and whose name, by a printer's error, appears on the register as Davenport, Henry D. Evereux (*Harding v. Cornwell*, 60 L. T. 959). A marksman may affix his mark, but the same must be witnessed by two parochial electors (G. O. r. 34), who may either be marksmen or persons who sign their names.

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The proposer should sign first, after him the seconder, the proposal should precede the seconding, and neither should precede the proper filling in of the candidates' names, place of abode, and description, and the statement whether he is qualified as a parochial elector or by residence (see *Harmon v. Park*, 7 Q. B. D. 369). A different proposer cannot be substituted without the assent of the seconder, if the latter has already signed (*ib.*)

Order of signatures.

If any person forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the chairman of the parish meeting any forged nomination paper, knowing it to be forged, he shall be guilty of a misdemeanor, and shall be liable to imprisonment for any term not exceeding six months with or without hard labour (M.C.A. s. 74). An attempt to commit any such offence shall be punishable as the offence is punishable (*ib.*).

Forged, etc., nomination paper.

No consent of the candidate to his own nomination is required, but any person who has been elected without his consent to his nomination being previously obtained, is not liable to a fine for non-acceptance of office (M.C.A. s. 34, sub. 6), and a *guardian* may refuse to serve (see *post*, p. 145).

Consent of candidate.

Every nomination paper shall be sent to the returning officer so that it shall be received at his office not later than two o'clock in the afternoon of Wednesday, the 5th of December, 1894; and a nomination paper received after that time shall not be valid (G.O. r. 6). The returning officer shall note on each nomination paper whether it was received before or after that time (G.O. r. 6). The nomination shall be "sent" to the returning officer, and therefore may be delivered by hand or sent by post. If sent by post, it must be sent in sufficient time so that it shall be "received" by the returning

SENDING IN NOMINATIONS.

To whom and when.

CHAP. VI.

officer on the above-named day, and not later than the above-named hour, and any person who adopts that mode of sending the nomination paper must take the risk of its being received by the returning officer too late to be valid. There is no requirement as to the person by whom the nomination paper shall be sent to the returning officer, and it may therefore be sent by the candidate, his proposer or seconder, any parochial elector, or by any agent or servant of any of them. The nomination paper need not be handed to the returning officer personally, all that is required being that it shall be sent to his office; if delivered, it may therefore be delivered to any person in charge of the office. The note which the returning officer is required to make on each nomination paper need not be made by his own hand, if it be made by his authority or direction; but as this note has to be made, and as the returning officer is required to number the nomination papers in the order in which they are received by him, he or some competent person should be in attendance at his office to receive the nomination papers, and to make this note and number thereon, or he must so regulate his letter-box, or other receptacle for the reception of letters, as to enable him to satisfy this requirement. The above-mentioned hour (two o'clock) is determined by Greenwich mean time (43 & 44 Vict. c. 9, s. 1), not by local time. There is nothing which fixes the earliest day on which a nomination paper may be sent to the returning officer, and practically, therefore, the earliest day is the earliest day on which the parochial elector can obtain a nomination paper. But it is submitted that the returning officer is not bound to receive, number, or note, a nomination paper before the notice of election has been given, and if so, the day on which that notice is given is the earliest day on which a nomination paper should be sent to the returning officer.

Numbering.

The returning officer shall number the nomination papers in the order in which they are received by him; and the first valid nomination paper received for a candidate shall be deemed to be the nomination of that candidate (G.O. r. 7, par. 1). The numbering may be on the face or back of the nomination paper; the former seems preferable. Where several nomination papers are delivered at the returning officer's office at the same moment, *e.g.*, by post, the returning officer should number

them in the order in which he opens the envelope or packet, or takes up and reads the nomination papers. CHAP. VI.

As the first valid nomination paper received by the returning officer for a candidate is *the nomination* of that candidate, any other nomination papers of such candidate, though also valid, become inoperative and nugatory.

The returning officer shall, as soon as practicable after the receipt of any nomination paper, examine the same, and decide whether it has or has not been properly filled up and signed by two parochial electors of the parish or other area, and whether it is or is not invalid under rule 4, par. 5, or rule 6 (G.O. r. 7, par. 2), *i.e.* by reason of the electors, or either of them, having signed more nomination papers than they are entitled to sign (see *ib.* r. 4, par. 5, *ante*, p. 115), or by reason of its having been received too late (see *ib.* r. 6, *ante*, p. 117). His decision that a nomination paper has been so filled up and signed and is not invalid as aforesaid shall be final, and shall not be questioned in any proceeding whatever (G.O. r. 7, par. 2).

DEALING
WITH BY
RETURNING
OFFICER.

Examination
and decision.

The returning officer is thus critically to scrutinise and examine each nomination paper, and to satisfy himself that it satisfies the requirements of the Act and rules, before he decides that it is valid. It is evidently intended that he shall exercise this function without aid or opposition from any parochial elector; that he is not to submit any nomination paper to, or to receive objections from, any opposing candidate or elector, or to hear arguments or to receive evidence, but is to decide upon the validity of each nomination paper of his own perception and upon his own sole judgment. He may, it is submitted, avail himself of the aid and advice of any skilled or experienced person whom he may desire to consult, but the decision must be his and not that of any such person. He is a judge of fact, and the fact in all cases within his jurisdiction is whether the requirements of the law with respect to the filling up, signature, and time of delivery of a nomination paper have, in substance and in common sense, been complied with. He may take the rest of Wednesday, the 5th, and the whole of Thursday, the 6th, and Friday, the 7th of December, 1894, in which to arrive at his decision, but not longer, as not later than the last-mentioned date, he must make out and make public the statement as to persons nominated (see

CHAP. VI. *post*, p. 123.). In the exercise of this function, the returning officer acts judicially, and he must therefore proceed with the utmost *bona fides* and impartiality; if in so doing no partiality or misconduct can be charged against him, he is not responsible for a *bonâ fide*, though erroneous, decision upon any point of law which can be raised in regard to any nomination paper (see *Harmon v. Park*, 6 Q. B. D. 323).

Although the returning officer is thus to decide these questions, he is not to consider any other question, and he is clearly not empowered to deal with every kind of objection that can be raised to a nomination as distinguished from a nomination paper (see *per* Lords Watson and Herschell in *Pritchard v. Bangor, Mayor, etc., of*, 13 App. Cas. at pp. 251, 257). He is to satisfy himself as to the validity of the nomination paper, and to determine any formal objections arising on the face thereof, but not of an objection which attacks the qualification of the candidate (*ib.*).

Summary of
invalidities.

To sum up, a nomination paper should be decided by the returning officer to be invalid:—

1. If it does not state the name of the parish or other area for which the candidate is nominated (see *ante*, pp. 109, 110); or,
2. If it does not state the surname and other names in full of the candidate (see *ante*, pp. 110, 111); or,
3. If it does not state the candidate's place of abode (see *ante*, p. 112); or,
4. If it does not state the candidate's description (see *ante*, p. 113); or,
5. If it does not state whether the candidate is qualified as a parochial elector of some parish within the poor law union, or by having during the whole of the twelve months preceding the election resided in the union, or, in the case of a parish or united parishes wholly or partly situate within the area of a borough, by being qualified to be elected a councillor for that borough (see *ante*, p. 114); or,
6. If the name of more than one candidate is inserted in any one nomination paper (see *ante*, p. 115); or,
7. If it is not signed by two parochial electors of the parish or other area (see *ante*, p. 115); or
8. If it does not state the respective places of abode of the proposer or seconder (see *ante*, p. 115); or,
9. If the name of the proposer, or seconder, or both,

does not appear on the register of parochial electors for the parish or other area for which the election is to be held, and in respect of some qualification therein (see *ante*, p. 115); or,

10. If either the proposer, or seconder, or both, has or have signed more nomination papers than there are guardians to be elected for the parish or other area for which the election is to be held, then those first received up to the number to be elected shall alone be valid (see *ante*, p. 115); or,

11. If the proposer, or seconder, or both, has or have signed nomination papers for more than one parish or other area in the union, then those only which relate to the first parish or other area for which a nomination paper is received shall be valid (see *ante*, p. 116); or,

12. If it was received after the prescribed time (see *ante*, p. 117).

With respect to matters clearly within the jurisdiction of the returning officer, it should be remembered that the allowance of frivolous objections may lead to the expense of an election petition, and to all the turmoil and expense of another election (as in *Mayo*, 2 O'M. & H. 191); also that the returning officer may often be disposed (as in *Monks v. Jackson*, 1 C. P. D. 683) to decide that a nomination paper is invalid rather than that it is valid, inasmuch as the former decision is subject to review by a court of law, whereas the latter decision, if made with jurisdiction, is final and cannot be questioned in any proceeding whatever (G.O. r. 7, par. 2). On the other hand, as the rejection of a nomination paper precludes the candidate from going to the poll, a returning officer may often prefer to allow the nomination paper, and thus to leave the electors to express their choice between the candidates; in which case, if the candidate whose nomination paper may be considered invalid is placed at the bottom of the poll, the further prosecution of the objection becomes immaterial. The proper course, however, is for the returning officer, without regard to consequences, to decide all questions that he has jurisdiction to decide.

If the returning officer shall decide that a nomination paper is invalid, he shall put a note on it to this effect, stating the grounds of his decision, and he shall sign such note (G.O. r. 7, par. 3). There is no provision that the contents of this note shall be communicated to the

Frivolous
objections.

Note when
invalid.

CHAP. VI. candidate or parochial electors, as there is at an election of parish councillors (P.O. r. 7, par. 2), but, on the other hand, there is no provision that it shall be kept secret, and it is submitted that the candidate and the proposer and seconder who signed the nomination paper declared to be invalid, should be entitled to inspect the returning officer's note, and thus to inform themselves of the grounds of his decision.

Notice of
decision.

After deciding that the nomination of any candidate is valid, or (except where a nomination of any candidate has been decided to be valid) that a nomination paper for the candidate is invalid, the returning officer shall, as soon as practicable, send, by post or otherwise, notice of his decision to the candidate (G.O. r. 7, par. 4). The following is a suggested form of notice that the nomination is valid :—

Union.
Parish of [or Ward of the Parish of , or United
Parishes of].

Sir [or Madam],
I beg to give you notice that I have decided that you have been validly nominated for election as Guardian for the above-named Parish [or Ward or United Parishes].
Dated this day of December, 1894.
(Signed) Y. Z.
Returning Officer.
To A. B.,
of (abode).
(description).

The name, abode, and description of the candidate thus notified should be taken from *the nomination* of the candidate, *i.e.* from the first valid nomination paper received for that candidate (see *ante*, p. 118).

And the following is a suggested form of notice that a nomination paper is invalid :—

Union.
Parish of [or Ward of the Parish of , or United
Parishes of].

Sir [or Madam],
I beg to give you notice that I have decided that the nomination paper [or papers] sent to me of yourself as a candidate for election as Guardian for the above-named Parish [or Ward, or United Parishes] is [or are] INVALID, and that you have NOT been nominated by a valid nomination paper.
Dated this day of December, 1894.
(Signed) Y. Z.
Returning Officer.
To A. B.,
of (abode),
(description).

Not later than Friday, the 7th of December, 1894, the returning officer shall make out a statement in the form No. 2 in G.O. sch. I., or in a form to the like effect, containing the names, places of abode, and descriptions of the persons nominated as guardians for the several urban parishes in the poor law union, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not (G.O. r. 8). He shall forthwith cause a copy thereof to be suspended in the board room of the guardians, and another to be affixed on the principal external gate or door of every workhouse of the union, and, if the board room of the guardians is not situate at any such workhouse, on the external gate or door of the building in which the board room of the guardians is comprised (*ib.*). "Forthwith" does not mean immediately (*Roberts v. Brett*, 34 L. J. C. P. 241), but within a reasonable time (*R. v. Rice*, 8 Moore 203; *R. v. Worcester, Justices of*, 7 Dowl. 789; *Costar v. Hetherington*, 1 E. & E. 802); the intention of this rule is, however, that the statement shall not only be made out, but shall be suspended and affixed not later than Friday, the 7th of December, 1894, *i.e.* before midnight of that day. The returning officer is not bound to wait until that day, but may make out, suspend, and affix the statement on Wednesday the 5th, or Thursday the 6th of December, 1894, if he thinks it preferable.

The following is the above-mentioned form :—

Union.

The following is a statement as to the persons nominated for election as Guardians for the several Urban Parishes [United Parishes and Wards of Parishes, *as the case may be*] in the above-named Union.

Parishes [United Parishes and Wards].	Persons Nominated.			Decision of Return- ing Officer that Candidate has not been nominated by a valid Nomination Paper.
	Names (Surnames first).	Places of Abode.	Descriptions.	
1.	2.	3.	4.	5.

CHAP. VI.

Statement as
to persons
nominated.

CHAP. VI.

The Candidates opposite whose names no entry is made in Column 5 have been validly nominated.

Dated this day of December, 1894.

Returning Officer.

Office for purpose of election.

WITH-
DRAWAL OF
CANDIDATE.

How and
when.

Any candidate may withdraw his candidature by delivering or causing to be delivered at the office of the returning officer before four o'clock on the afternoon of Friday, the 7th of December, 1894, a notice in writing of such withdrawal, signed by him (G.O. r. 9). The following form is suggested:—

Union.

Election of Guardians, December, 1894.

I, A. B., of , having been nominated as a candidate at the above-named election for the Parish of [or Ward of the Parish of , or United Parishes of], hereby withdraw my candidature.

Dated this day of December, 1894.

(Signed) A. B.

To the Returning Officer.

It will be observed that the candidature of a candidate cannot be withdrawn by his proposer or seconder, or by any person other than the candidate himself. It will also be observed that the notice of withdrawal must be delivered at the office of the returning officer before the above-mentioned day and hour, and that if the notice is delivered subsequently, or if the candidate subsequently desires to withdraw his candidature, such withdrawal is too late to have any effect in stopping the poll. The hour (4 P.M.) is determined by Greenwich mean time (43 & 44 Vict. c. 9, s. 1), not local time.

Statement to
returning
officer of
urban district
councillors.

Immediately after four o'clock on Friday, the 7th of December, 1894, the returning officer shall send to each returning officer for the election of urban district councillors who is deputy returning officer for the purposes mentioned *ante*, p. 91 in relation to the poll for the election of guardians, a statement of the persons validly nominated as guardians for the parish who have not withdrawn their candidatures, giving the surname and other name or names in full of each such candidate, and his place of abode and description, and the names of his proposer and seconder, and their respective places of abode (G.O. r. 13, par. 2). The returning officer for the election of urban district

councillors is deputy returning officer for the election of guardians, where the parish is co-extensive with, or wholly comprised in, an urban district, not divided into wards, or wherever the county council direct that the polls for the election of guardians for the parish and any poll for the election of urban district councillors are to be taken together, and such polls are taken together (G.O. r. 13, par. 1; and see *ante*, p. 91). The following form of the above-mentioned statement is suggested:—

Union.

Parish of [or Ward of the Parish of , or United
Parishes of].

The following is a Statement of the persons validly nominated as Guardians for the above-named Parish [or Ward or United Parishes] who have not withdrawn their candidatures.

Persons validly nominated.				Proposer.		Seconders.	
Sur-name.	Other Name or Names (in full).	Place of Abode.	Descrip-tion.	Names.	Place of Abode.	Names.	Place of Abode.

Dated this seventh day of December, 1894.

Y. Z.

Returning Officer.

Office for purpose of election.

To W. X.,

The Returning Officer for the Election of Urban District Councillors.

If the number of valid nominations exceeds that of the persons to be elected as guardians, the guardians shall be elected from amongst the persons nominated (G.O. r. 10, par. 1), and a poll must be held to determine which of the persons nominated is to be declared elected.

NUMBER OF
NOMINA-
TIONS.

Exceeding
vacancies.

If the number of valid nominations does not exceed the number of guardians to be elected, or if by the withdrawal of any candidates as provided by rule 9, (see *ante*, p. 124), the number of candidates for the parish is reduced to a number not exceeding the number of

Not exceeding
vacancies.

CHAP. VI.
 —
 Notice that no
 poll will be
 taken.

persons to be elected, or if the number of candidates is otherwise so reduced, the returning officer shall, as early as practicable, give public notice in the parish to this effect, stating that no poll will be taken, and that the candidates, or the remaining candidates, as the case may be, will be declared to be elected (G.O. r. 10, par. 2). The word "valid" here refers to nominations which are held to be valid by the returning officer; and therefore, if the nomination of a person who is legally disqualified is regular in form, and fulfils all requisite conditions, it is a good nomination notwithstanding that the person is disqualified, and notwithstanding that his election is open to question by means of an election petition (*per* Lord Herschell in *Pritchard v. Bangor, Mayor, &c., of*, 13 App. Cas. 257). A candidate duly nominated will on election petition be declared elected, although his opponent, who was not duly nominated, has obtained a majority of lawful votes (*Monks v. Jackson*, 1 C. P. D. 683; *Brown v. Benn*, 5 Times L. R. 247). If by reason of the number of valid nominations being less than the vacancies a difficulty arises with respect to the first meeting of the board (*e.g.* by reason of there being an insufficient number of duly elected guardians to form a quorum), or if owing to the same reason the first board of guardians is not properly constituted, the county council may make an order as mentioned *ante*, p. 15. As to the continuance in office of previously elected guardians when there has been a failure to elect new guardians, see *ante*, p. 16. The words "otherwise so reduced" include the case of the death of a candidate (see *post*, p. 128).

The above-mentioned notice that no poll will be taken shall be given "as early as practicable" (*ib.* r. 10, par. 2), but it is not practicable to give it earlier than 4 P.M. on Friday, the 7th of December, 1894, for until that hour on that day any candidate may withdraw his candidature (see *ante*, p. 124), and therefore until then the returning officer does not know whether "by the withdrawal of any candidates the number of candidates is reduced to a number not exceeding the number of persons to be elected" (see G.O. r. 10, par. 2), and cannot state in the notice whom, if any one, has "withdrawn his candidature" (see the form, *infra*). The notice shall be in the following form, or in a form to the like effect (G.O. r. 10, par. 4):—

Union.

CHAP. VI.

Parish of [or Ward of the Parish of , or United
Parishes of .]

WHEREAS the following candidates have been duly nominated for election as Guardians for the said Parish [or Ward or United Parishes]:—
[Insert names, places of abode, and descriptions of candidates.]

And whereas the number of those [or And whereas the said
[insert name or names] has [or have] since withdrawn his [or their]
candidature [or if some other event has occurred causing a person to
cease to be a candidate state what it is], and the number of the
remaining] candidates does not exceed the number of persons to be
elected as Guardians for the said Parish [or Ward or United Parishes],

I do hereby give notice that a poll will not be taken, and that
the said [insert names] will be declared elected as
Guardians for the said Parish [or Ward or United Parishes.]

Dated this day of December, 1894.

Returning Officer.

As to how and where “public notice” is given see
ante, p. 100.

The returning officer shall forthwith send, by post or
otherwise, a copy of such notice to each of such candi-
dates (G. O. r. 10, par. 3).

The returning officer shall prepare and sign a state-
ment of the result of the elections in all the urban
parishes in the poor law union, and shall by such notice
declare to be elected the persons who, under rule 10
(see *ante*, p. 125), are to be declared to be elected without
a poll being taken (G. O. r. 24, par. 1). Such persons
shall be deemed to have been elected on the day of
election fixed by or under G. O. r. 2 (*ib.*), as to which
see *ante*, p. 95. The notice is not to be given until the
result of all the elections in all the parishes in the union
has been ascertained (see G. O. r. 24, par. 1), but when
given shall be in the following form, or in a form to the
like effect (*ib.*).

PUBLICATION
OF RESULT
OF ELEC-
TIONS.

Notice
thereof.

Union.

Election of Guardians

for the above-named Union in the year 1894.

I, the undersigned, being the Returning Officer at the election of
Guardians for the said Union, do hereby [give notice that the
candidates, whose names are entered in column 6 of the statement
hereunder, opposite to the names of Parishes, Wards, or United
Parishes in which polls have been taken have been declared duly
elected Guardians; and I hereby] declare that the candidates whose
names are entered in the said column opposite to the names of
Parishes, Wards, and United Parishes [where no polls have been
taken] were duly elected Guardians for the same.

CHAP. VI.

Parishes, Wards, and United Parishes.	Names of Candidates.		Places of Abode.	Number of Votes recorded.	Names of Candidates elected.
	Surnames.	Other Names.			
1.	2.	3.	4.	5.	6.

Dated this day of December, 1894.

Returning Officer.

If the elections in all the urban parishes in the union are uncontested, so that no poll is taken, the above form may be modified by omitting the words in brackets, altering the words "said column" to "column No. 6 in the statement hereunder," and omitting column No. 5.

The returning officer shall cause a copy of the statement to be suspended in the board room of the guardians (G. O. r. 24, par. 2). He shall also send a sufficient number of copies of the statement to the overseers of each urban parish in the union, and the overseers shall cause public notice to be given of such statement (*ib.*) by posting the same on or near the principal door of each church or chapel in the parish and in some conspicuous place or places within the parish (*ib.* r. 33, and see *ante*, p. 100).

DEATH OF
CANDIDATE.

There is no express provision for the case of the death of the candidate at the time when, or after, he has been nominated and before the poll, but G. O. r. 10, par. 2 (*ante*, p. 125), speaks of the number of candidates being "otherwise so reduced" as that the number of valid nominations or candidates does not exceed the number of vacancies. These words "otherwise so reduced" are sufficient to include a reduction by death, and to authorise the returning officer to give notice that no poll will be taken in the event dealt with by that rule. But there is no provision enabling or directing a returning officer to take notice of a death in any other case, and he must therefore, in any other case, retain the name in the notices, ballot papers, &c., and in every way treat the candidate as still alive. What evidence of death the

returning officer should require in the case above mentioned is left to his discretion, but it is submitted that he may safely act on a doctor's certificate, or on a statutory declaration of any credible person present at the death.

CHAP. VI.

After election the death of a guardian creates a casual vacancy, in respect whereof notice can be given and a fresh election held (see *post*, p. 156).

As to the expenses incurred by the returning officer in connection with an uncontested election of guardians and the repayment thereof, see *post*, p. 312.

EXPENSES OF
ELECTION.

B.—RURAL DISTRICT COUNCILLORS.

Most of the rules of the R.O. are in precisely the same language to those of the G.O. It is therefore only necessary to notice the different numbering of the rules, and such differences as exist in the two orders, and to refer to the antecedent pages of this book where the subject of each rule is discussed.

Each candidate must be nominated in writing (R.O. r. 4, par. 1, and see *ante*, p. 109), and nomination papers are obtainable from the returning officer or overseers (*ib.* r. 5, and see *ante*, p. 109). The nomination paper shall state the name of the parish or other area for which the candidate is nominated, the surname and other name or names in full of the candidate, and his place of abode and description, and whether he is qualified as a parochial elector of some parish within the poor law union in which the rural district or the part of the rural district containing the parish or other area is situate is comprised, or by having, during the whole of the twelve months preceding the election, resided in the union, or by being qualified to be a councillor for a borough wholly or partly situate within the union (*ib.* r. 4, par. 2, and see *ante*, p. 109); and a misnomer or inaccurate description in the nomination paper shall not hinder its full operation, if the description be such as to be commonly understood (*ib.* r. 34, and see *ante*, p. 115). The nomination paper shall be in the form set out in the notice of election (*ante*, p. 102), or in a form to the like effect (*ib.* r. 4, par. 2). The name of more than one candidate shall not be inserted in any one nomination paper (*ib.* r. 4, par. 3).

NOMINATION
PAPER.

Contents.

Form.

The nomination paper shall be signed by two parochial

Signature.

CHAP. VI. electors of the parish or other area and no more (R.O. r. 4, par. 2, and see *ante*, p. 115) : a parochial elector shall not sign more nomination papers than there are councillors to be elected, nor for more than one parish or other area in the rural district (*ib.* r. 4, par. 4, and see *ante*, p. 115) ; and if he does sign more than such number of nomination papers, the effect is the same as at an election of guardians (see *ib.* r. 4, par. 5, and *ante*, p. 116). The same penalty attaches to the forgery, etc., of a nomination paper (M.C.A. s. 74, *ante*, p. 117), and a candidate nominated without his own consent is not liable to the fine for non-acceptance of office (*ib.* 34, sub. 6, *ante*, p. 117).

SENDING IN
NOMINA-
TIONS.

—
To whom
and when.

DEALING
WITH BY
RETURNING
OFFICER.

—
Examination
and decision.

Statement as
to persons
nominated.

Nomination papers must be sent to the returning officer not later than the same day and hour (2 P.M. on Wednesday, the 5th of December, 1894), and the returning officer shall make the same note thereon (R.O. r. 6) as in the case of guardians (see *ante*, p. 117).

The returning officer shall number the nomination papers, and the first valid nomination received by him shall be *the nomination* of the candidate (R.O. r. 7, par. 1, and see *ante*, p. 118). The returning officer shall examine and decide on the validity of each nomination paper, shall put a note on any that he decides to be invalid, and shall send notice of his decision to each candidate (*ib.* r. 7, pars. 2, 3, 4), as in the case of guardians (see *ante*, pp. 119, 121, 122).

Not later than Friday, the 7th of December, 1894, the returning officer shall make out a statement in the form No. 2 in R.O. sch. I., or in a form to the like effect, for each rural district, or part of a rural district, comprised in the poor law union, containing the names, places of abode, and descriptions of the persons nominated as rural district councillors for the several parishes in the rural district or part of a rural district, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not (R.O. r. 8, and see *ante*, p. 123). He shall forthwith cause a copy thereof to be suspended in the board room of the guardians of the poor law union in which these parishes are situate, and another to be affixed on the principal external gate or door of every workhouse of the union, and, if the board room of the guardians is not situate at any such workhouse, on the external gate or door of the building in which the board room is comprised (*ib.*).

The following is the above-mentioned form :—

CHAP. VI.

Rural District of .

The following is a statement as to the persons nominated for election as Rural District Councillors for the several Parishes [United Parishes and Wards of Parishes, *as the case may be*] in the above-named Rural District [*which are situated in the Poor Law Union of].

* If the Rural District is wholly comprised in one Poor Law Union omit these words.

Parishes [United Parishes and Wards].	Persons nominated.			Decision of Returning Officer that Candidate has not been nominated by a valid Nomination Paper.
	Names (Surnames first).	Places of Abode.	Descrip- tions.	
1.	2.	3.	4.	5.

The Candidates opposite whose names no entry is made in Column 5 have been validly nominated.

Dated this day of December, 1894.

Returning Officer.

Office for purpose of election.

Any candidate may withdraw his candidature in the same time and manner as in the case of guardians (R.O. r. 10, and see *ante*, p. 124).

If the number of valid nominations exceeds that of the persons to be elected, the councillors shall be elected from amongst the persons nominated (R.O. r. 9, par. 1, and see *ante*, p. 125).

If the number of valid nominations does not exceed the number of rural district councillors to be elected, the returning officer shall on Friday, the 7th day of December, 1894, send, by post or otherwise, notice to each candidate who has not withdrawn his candidature under rule 10, stating that he will be returned as elected (R.O. r. 9, par. 2); this notice is, it will be observed, to be sent "on," not "not later than" (*cp. ib.* r. 8, *ante*, p. 125) Friday, the 7th of December, 1894, and it must therefore be sent on that day and on no other. The candidates to whom this notice is to be sent are, of course, only those who have been validly nominated.

WITH-
DRAWAL OF
CANDIDATE.

NUMBER OF
NOMINA-
TIONS.

Exceeding
vacancies.

Not exceeding
vacancies.

Notice to
candidate.

CHAP. VI. The following form of notice to the candidates is suggested:—

Rural District of
Parish of [or Ward of the Parish of , or
United Parishes of].
Sir [or Madam],

WHEREAS you have been duly nominated for election as a Rural District Councillor for the above-named Parish [or Ward, or United Parishes]. AND WHEREAS the number of valid nominations does not exceed the number of Rural District Councillors to be elected, NOW I HEREBY GIVE YOU NOTICE that you will be returned as elected.

Dated this seventh day of December, 1894.

(Signed) Y. Z.,
Returning Officer.

To A. B.,
of (abode).
(description).

The name, abode, and description of the candidate thus notified should be taken from *the nomination* of the candidate ; *i.e.* from the first valid nomination paper received for that candidate (see *ante*, p. 118).

Notice to
overseers.

The returning officer shall also as early as practicable send, by post or otherwise, notice to the overseers of the parish of the names, places of abode, and descriptions of the persons who will be declared to be elected, and the overseers shall give public notice thereof in the parish (R.O. r. 9, par. 2). The following form of notice to the overseers is suggested:—

Rural District of
Parish of [or Ward of the Parish of or United
Parishes of].

WHEREAS the number of valid nominations of candidates for election as Rural District Councillors for the above-named Parish [or Ward or United Parishes] does not exceed the number of Rural District Councillors to be elected for the said Parish [or Ward or United Parishes]. NOW I HEREBY GIVE NOTICE that the following are the names, places of abode, and descriptions of the persons who will be declared to be elected.

Names.		Places of Abode.	Descriptions.
Surnames.	Other Name or Names.		

Dated this seventh day of December, 1894.

To the Overseers.

Y. Z.,
Returning Officer.

The following form of notice by the overseers is suggested :—

CHAP. VI.

Rural District of .

Parish of [or Ward of the Parish of or United
Parishes of].

WHEREAS the number of valid nominations of candidates for election as Rural District Councillors for the above-named Parish [or Ward or United Parishes] does not exceed the number of Rural District Councillors to be elected for the said Parish [or Ward or United Parishes]. NOTICE IS THEREFORE HEREBY GIVEN that the following are the names, places of abode, and descriptions of the persons who will be declared to be elected,

Names.		Places of Abode.	Descriptions.
Surnames.	Other Name or Names.		

Dated this day of December, 1894.

_____ } Overseers.

Printed and published by K. & Co. of .

The overseers should give this notice forthwith on receipt of the notice from the returning officer. As to what is public notice, see *ante*, p. 100.

If, by the withdrawal of any candidates as provided by rule 10, the number of candidates for the parish is reduced to a number not exceeding the number of persons to be elected, or if the number of candidates is otherwise so reduced, the returning officer shall give public notice in the parish to this effect, stating that no poll will be taken, and that the remaining candidates will be declared to be elected (R.O. r. 11, par. 1, and see *ante*, p. 125).

Notice that
poll will not
be taken.

He shall forthwith send, by post or otherwise, a copy of such notice to each of such last-mentioned candidates (*ib.* par. 2).

The notice shall be in the following form, or in a form to the like effect (*ib.* par. 3) :—

CHAP. VI.

Rural District of .

Parish of [or Ward of the Parish of , or
United Parishes of].

WHEREAS the following candidates have been duly nominated for election as Rural District Councillors for the said Parish [or Ward or United Parishes]:—[Insert names, places of abode, and descriptions of candidates.]

And whereas [insert name or names] has [or have] since withdrawn his [or their] candidature [or if some other event has occurred causing a person to cease to be a candidate state what it is], and the number of the remaining candidates does not exceed the number of persons to be elected as Rural District Councillors for the said Parish [or Ward or United Parishes], I do hereby give notice that a Poll will not be taken, and that [insert names] will be declared elected as Rural District Councillors for the said Parish [or Ward or United Parishes].

Dated this day of December, 1894.

Returning Officer.

PUBLICATION
OF RESULT OF
ELECTIONS.

Notice
thereof.

The returning officer shall, with respect to each rural district or part of a rural district comprised in the poor law union, prepare and sign in duplicate a statement of the result of the elections in all the parishes in the district or part of a district, and shall by such notice declare to be elected the persons who, under rule 9 (see *ante*, p. 131), or rule 11 (see *ante*, p. 133), are to be declared to be elected without a poll being taken (R.O. r. 23, par. 1). Such persons shall be deemed to have been elected on the day of election fixed by or under R.O. r. 2 (*ib.*), as to which see *ante*, p. 100. The notice shall be in the form No. 7 in R.O. sch. I., or in a form to the like effect (*ib.* r. 23, par. 1). One of these statements shall be sent by the returning officer, as early as practicable, to the clerk to the rural district council, and the other to the clerk to the guardians of the union comprising the rural district or the part of a rural district; and copies of the statement shall be sent by the returning officer to the returning officer for so much of the rural district (if any) as is situate in another poor law union, and to the elected candidates (R.O. r. 23, par. 2). The returning officer shall also send a sufficient number of copies of the statement to the overseers of all the parishes comprised in the rural district, whether in the same union or not, and the overseers of every such parish shall cause public notice to be given of such statement (R.O. r. 23, par. 3). As to what is public notice, see *ante*, p. 100.

The following is the form No. 7 of notice in R.O.

sch. I. above mentioned. If the whole of the elections are uncontested, the notice can be altered and adapted as suggested, *ante*, p. 128.

CHAP. VI.

Rural District of

Election of Rural District Councillors for the above District
[or for so much of the above District as is comprised in
the Union] in the year 1894

I, the undersigned, being the Returning Officer at the election of Rural District Councillors for the said District [or for so much of the said District as is comprised in the said Union], do hereby give notice that the candidates whose names are entered in Column 6 of the statement hereunder, opposite to the names of Parishes, Wards, and United Parishes in which polls have been taken, have been declared duly elected Rural District Councillors; and I hereby declare that the candidates whose names are entered in the said column opposite to the names of Parishes, Wards, and United Parishes where no polls have been taken were duly elected Rural District Councillors for the same.

Parishes, Wards, and United Parishes.	Names of Candidates.		Places of Abode.	Number of Votes recorded.	Names of Candidates. elected.
	Surnames.	Other Names.			
1.	2.	3.	4.	5.	6.

Dated this day of December, 1894.

Returning Officer.

The same remarks with regard to the death of a candidate apply as in the case of guardians (*ante*, p. 128), with the substitution of R.O. r. 11, par. 1 for G.O. r. 10, par. 2.

DEATH OF
CANDIDATE.

As to the expenses incurred by a returning officer in connection with an uncontested election of rural district councillors, and the repayment thereof, see *post*, p. 312.

EXPENSES OF
ELECTION.

C.—URBAN DISTRICT COUNCILLORS.

The U.O. is of even date with the G.O., and follows the language of the latter even more closely than the R.O. Its differences are mainly differences of omission, due to the smaller and more compact areas over which it operates. It is, therefore, again only necessary to notice the different numbering of the rules, and such differences as exist between it (the U.O.) and

CHAP. VI.	the G.O., and to refer to the antecedent pages of this book where the subject of each rule is discussed.
NOMINATION PAPER.	Each candidate must be nominated in writing (U.O. r. 4, par. 1, and see <i>ante</i> , p. 109), and nomination papers are obtainable from the returning officer (<i>ib.</i> r. 5, and see <i>ante</i> , p. 109), but not from the overseers. The nomination paper shall state the name of the district or ward for which the candidate is nominated, the surname and other name or names in full of the candidate, and his place of abode and description, and whether he is qualified as a parochial elector of some parish within the district, or by having during the whole of the twelve months preceding the election resided in the district (<i>ib.</i> r. 4, par. 2, and see <i>ante</i> , p. 109); and a misnomer or inaccurate description in the nomination paper shall not hinder its full operation, if the description be such as to be commonly understood (<i>ib.</i> r. 32, and see <i>ante</i> , p. 115).
Contents.	The nomination paper shall be in the form set out in the notice of election (<i>ante</i> , p. 105), or in a form to the like effect (<i>ib.</i> r. 4, par. 2). The name of more than one candidate shall not be inserted in any one nomination paper (<i>ib.</i> r. 4, par. 3. It shall be signed by two parochial electors of the district, or, if the district is divided into wards, of the ward, as proposer and seconder, and no more, and shall state their respective places of abode (<i>ib.</i> r. 4, par. 2, and see <i>ante</i> , p. 115); a parochial elector shall not sign more nomination papers than there are councillors to be elected, nor for more than one ward in the urban district (<i>ib.</i> r. 4, par. 4, and see <i>ante</i> , p. 115); and if he does sign more than such number of nomination papers, the effect is the same as at an election of guardians (see <i>ib.</i> r. 4, par. 5, and <i>ante</i> , p. 115). The same penalty attaches to the forgery, etc., of a nomination paper (M.C.A. s. 74, <i>ante</i> , p. 117); and a candidate nominated without his own consent is not liable to the fine for non-acceptance of office (<i>ib.</i> s. 34, sub. 6, <i>ante</i> , p. 117).
Form.	Nomination papers must be sent to the returning officer on the same day and hour (2 P.M. on Wednesday, the 5th of December, 1894), and the returning officer shall make the same note thereon (U.O. r. 6), as in the case of guardians (see <i>ante</i> , p. 117).
Signature.	The returning officer shall number the nomination papers, and the first valid nomination paper received by him shall be <i>the nomination</i> of the candidate (U.O. r. 7,
SENDING IN NOMINATIONS.	
To whom and when.	
DEALING WITH BY RETURNING OFFICER.	

par. 1, and see *ante*, p. 118). The returning officer shall examine and decide on the validity of each nomination paper, shall put a note on any that he decides to be invalid, and shall send notice of his decision to each candidate (*ib.* r. 17, pars. 2, 3, 4), as in the case of guardians (see *ante*, pp. 119, 121, 122).

CHAP. VI.

Examination
and decision.

Not later than Friday, the 7th of December, 1894, the returning officer shall make out a statement in the form No. 2 in U.O. sch. I., or in a form to the like effect, containing the names, places of abode, and descriptions of the persons nominated as urban district councillors for the district or for the several wards thereof, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not (U.O. r. 8, and see *ante*, p. 123). He shall forthwith cause a copy thereof to be suspended in the board room, if any, of the urban sanitary authority, and another to be affixed on the principal external gate or door of the offices of the sanitary authority (*ib.*). If there are no such offices he shall cause such notice to be posted in some conspicuous place or places within the district (*ib.* and see *ante*, p. 100).

Statement as
to persons
nominated.

The following is the above-mentioned form :—

Urban District of

The following is a statement as to the persons nominated for election as Urban District Councillors for the above-named District [or for the several Wards in the above-named District].

District [or Wards].	Persons nominated.			Decision of Returning Officer that Candidate has not been nominated by a valid Nomination Paper.
	Names (Surnames first).	Place of Abode.	Descrip- tion.	
1.	2.	3.	4.	5.

The Candidates opposite whose names no entry is made in Column 5 have been validly nominated.

Dated this day of December, 1894.

Returning Officer.

Office for purpose of election.

CHAP. VI.

WITH-
DRAWAL OF
CANDIDATE.NUMBER OF
NOMINA-
TIONS.Exceeding
vacancies.Not exceeding
vacancies.Notice that
no poll will
be taken.

Any candidate may withdraw his candidature in the same time and manner as in the case of guardians (U.O. r. 9, and see *ante*, p. 124).

If the number of valid nominations exceeds that of the persons to be elected, the councillors shall be elected from amongst the persons nominated (U.O. r. 10, par. 1, and see *ante*, p. 125).

If the number of valid nominations does not exceed that of the councillors to be elected, or if by withdrawals they are reduced to a number not exceeding the number to be elected, or if the number of candidates is otherwise so reduced, the returning officer shall give public notice that no poll will be taken, and shall send a copy of such notice to each of the candidates (U.O. r. 10, pars. 2, 3), as in the case of guardians (see *ante*, p. 125). The notice shall be in the following form, or in a form to the like effect (*ib.* r. 10, par. 4).

Urban District of

[Ward of the above District].

WHEREAS the following candidates have been duly nominated for election as Urban District Councillors for the said District [*or Ward*] :—[*Insert names, places of abode, and description of candidates.*]

And whereas [*insert name or names*] has [*or have*] since withdrawn his [*or their*] candidature [*or if some other event has occurred causing a person to cease to be a candidate state what it is*], and the number of the remaining candidates does not exceed the number of persons to be elected as Urban District Councillors for the said District [*or Ward*], I do hereby give notice that a Poll will not be taken, and that [*insert names*] will be declared elected as Urban District Councillors for the said District [*or Ward*].

Dated this day of December, 1894.

Returning Officer.

PUBLICATION
OF RESULT OF
ELECTIONS.

Notice
thereof.

The returning officer shall prepare and sign a statement of the result of the election in the district, or in all the wards of the district, as the case may be, and shall by such notice declare to be elected the persons who, under rule 10 (see *supra*), are to be declared to be elected without a poll being taken (U.O. r. 23, par. 1). Such persons shall be deemed to have been elected on the day of election fixed by or under U.O. r. 2 (*ib.*), as to which see *ante*, p. 104. The notice shall be in the form No. 7 in U.O. sch. I., or in a form to the like effect (*ib.* r. 23, par. 1).

The returning officer shall cause a copy of the statement to be suspended in the board room, if any, of the

urban sanitary authority, and he shall also cause public notice thereof to be given (*ib.* r. 23, par 2). As to what is "public notice," see *ante*, p. 100.

The following is the form (No. 7) of notice in U.O. sch I. above mentioned. If the whole of the elections are uncontested, the notice can be altered and adapted as suggested, *ante*, p. 128.

Urban District of

Election of Urban District Councillors
for the above District in the year 1894.

I, the undersigned, being the Returning Officer at the election of Urban District Councillors for the said District do hereby give notice that the candidates at the election, whose names are entered in Column 6 of the Statement hereunder opposite to the numbers entered in Column 5 have been declared duly elected Urban District Councillors; and I hereby declare that the candidates whose names are entered in the said Column, and opposite to whose names no numbers are entered in Column 5, were duly elected as Urban District Councillors for the District [*or* for the Wards opposite to the names of which in Column 1 the names of such Candidates are entered.]

District and Wards.	Number of Candidates.		Places of Abode.	Number of Votes recorded.	Names of Candidates elected.
	Surnames.	Other Names.			
1.	2.	3.	4.	5.	6.

Dated this day of December, 1894.

Returning Officer.

The same remarks with regard to the death of a candidate apply as in the case of guardians (*ante*, p. 128), with the substitution of U.O. r. 10, par. 2, for G.O. r. 10, par. 2. DEATH OF
CANDIDATE.
—

As to the expenses incurred by a returning officer in connection with an uncontested election of urban district councillors, and the repayment thereof, see *post*, p. 312. EXPENSES OF
ELECTION.
—

ACCEPTANCE AND RESIGNATION OF OFFICE, AND LOSS OF QUALIFICATION OR OFFICE.

I.—ACCEPTANCE OF OFFICE.

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II.—RESIGNATION OF OFFICE.

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III.—LOSS OF QUALIFICATION OR OFFICE.

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The M.C.A. and the M.E.C.I.P.A. as adapted and altered by G.O. r. 26, par. 1, and r. 27; by R.O. r. 25, par. 1, and r. 26; and by U.O. r. 25, par. 1, and r. 26, are applied to the election of guardians and of rural and urban district councillors by L.G.A. s. 48, sub. 4. The provisions of the M.C.A. have in many instances been considerably altered by the above-mentioned Orders from those which appear in the Act itself, and are cited, not from that Act, but from the schedules to the rules in the G.O., R.O., and U.O. respectively.

Every qualified person elected to the office of guardian, rural or urban district councillor, unless exempt under M.C.A. s. 34 or otherwise by law, either shall accept the office by making and subscribing the declaration required by the M.C.A. within one month after notice of election, or shall, in lieu thereof, be liable to pay to the board of guardians, rural or urban district council (as the case may be), a fine of such amount, not exceeding fifty pounds, as the guardians or district council by regulations determine (M.C.A. s. 34, sub. 1). If there are no regulations determining fines, the fine shall be twenty pounds (*ib.* sub. 2). The fine is recoverable summarily (*ib.* sub. 4); *i.e.*, before a court of summary jurisdiction (see 42 & 43 Vict. c. 49, ss. 20, 51). The regulations may fix a nominal sum as the fine.

DECLARATION ON ACCEPTANCE.

As to who is qualified to be elected to the office of guardian, see *ante*, p. 31; to the office of rural district councillor, see *ante*, p. 65; and to the office of urban district councillor, see *ante*, p. 66. As to who are exempt, see *post*, p. 144.

A chairman, vice-chairman, and the two other persons elected by the board from outside the guardians, become on election additional guardians and members of the board (see L.G.A. s. 20, sub. 7, *ante*, pp. 6, 8, 10), and as they are not exempt under M.C.A. s. 34, or otherwise by law, must, it is submitted, make and subscribe the above-mentioned declaration, with such modifications or exceptions as are needful to suit their respective cases.

A person who is elected guardian, rural or urban district councillor, in more than one parish or other area in the poor law union (or in more than one ward in the urban district), for which the election is held, shall not accept office in respect of more than one of such areas (M.C.A. s. 34, sub. 5).

The declaration shall be in the following form, or in a Form.

CHAP. VII. form to the like effect (M.C.A. s. 35) ; viz., in the case of a guardian :—

I, *A.B.*, having been elected guardian for the Poor Law Union of _____
in respect of the Parish of _____ [or of the United Parishes
of _____ and _____, or of the Ward of the Parish of _____],
hereby declare that I take the said office upon myself, and will duly
and faithfully fulfil the duties thereof according to the best of my
judgment and ability.

Dated this _____ day of _____, 189 .

This declaration was made and subscribed before us *

Guardians of the above-
named Union. { _____

* If the declaration is made and subscribed before the Clerk, adapt form accordingly.

In the case of a rural district councillor :—

I, *A.B.*, having been duly elected rural district councillor for the rural district of _____, in respect of the Parish of _____ [or of the United Parishes of _____ and _____, or of the Ward of the Parish of _____], hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability.

Dated this _____ day of _____, 189 .

This declaration was made and subscribed before us *

Members of the District
Council of the above-
named District. { _____

* If the declaration is made and subscribed before the Clerk, adapt form accordingly.

And in the case of an urban district councillor :—

I, *A.B.*, having been elected urban district councillor for the urban district of _____ [in respect of the Ward of the District], hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability.

Dated this _____ day of _____, 189 .

This declaration was made and subscribed before us *

Members of the District
Council of the above-
named District. { _____

* If the declaration is made and subscribed before the Clerk, adapt form accordingly.
Signature.

The signature to the declaration may be the person's usual signature ; as to what is "signature," see *ante*, p. 116, and as to the signature of a marksman, see *ante*, p. 117.

Taking the declaration.

The declaration must be made and subscribed before two guardians of the poor law union, or members of the district council, or the clerk to the guardians of the union or district council, and, until so made and sub-

scribed, no person elected to the office of guardian or urban or rural district councillor shall act in the office, except in administering that declaration (M.C.A. s. 35). Members of the board of guardians or district council (as the case may be), or the clerk before whom the declaration may be made, have authority to receive the declaration without any commission or authority other than the M.C.A. (M.C.A. s. 239, sub. 1). But the members or clerk asked to receive the declaration may refuse to do so, if satisfied of the disqualification of the person applying to make it, and such members or clerk cannot, under such circumstances, be compelled by mandamus to receive it (*R. v. Greene*, 2 Q. B. 460). There is nothing which requires the declaration to be made and subscribed within the limits of the union or district, and it may therefore be made and subscribed anywhere.

“Month” means calendar month (52 & 53 Vict. c. 63, s. 3). If the last day of the month falls on a Sunday, Christmas Day, Good Friday, or a bank holiday, the declaration may perhaps be made and subscribed on the following day, not being one of the days above-mentioned (L.G.A. s. 73, but see *post*, p. 315). It is submitted that the month does not commence to run until the person has received official notice of his election, or has become aware of his election (see *infra*), that this limit of one month is not mandatory or absolute, and that therefore the person may make and subscribe the declaration after the month has expired, if he does so before any notice of the vacancy has been given under M.C.A. s. 66, sub. 1 (see *R. v. Preece*, 5 Q. B. 94, and see M.C.A. s. 41, sub. 1, *post*, p. 144). Limit of time.

The notice which a person must receive before he is brought within the above provision is notice acquired, either by being actually present when his election is announced, or by being apprised of the fact by some official authority; mere casual information is insufficient (*R. v. Preece*, 5 Q. B. 97). Such a notice should be given by the clerk to the guardians or district council to the person elected, as soon as the clerk is apprised of the election, and may be in the following form:— Notice of election.

Sir [*or Madam*],

Union [*or District*].

Union Offices,
December, 1894.

I beg to inform you that you have been duly elected a Guardian for the above Union [*or a District Councillor for the above District*] in

CHAP. VII.

respect of the Parish of [or of the United Parishes of], or of the Ward of the Parish [or District] of].

I also beg to remind you that, unless exempt by law, you must accept office by making and subscribing the declaration of acceptance of office within one month from this date, or you will be liable to pay to the Board of Guardians [or District Council] a fine of pounds.

A form of the above-mentioned declaration can be obtained at my office, and the same may be made and subscribed before two members of the Board of Guardians [or District Council], or before the clerk to the Guardians of the Union [or to the District Council].

I am, Sir,

Your obedient servant,

P. Q.,

Clerk to the Guardians
[or District Council].

To A. B.,
of (abode),
(description).

FINE FOR
ACTING
BEFORE
ACCEPTANCE.

A person elected to the office of guardian or district councillor shall not, until he has duly made and subscribed the above-mentioned declaration, act in the office, except in administering that declaration (M.C.A. s. 35); and if any person acts in such office without having made that declaration, he shall for each offence be liable to a fine not exceeding twenty pounds, recoverable by action (M.C.A. s. 41, sub. 1). If a guardian or district councillor becomes disqualified by being concerned in a bargain or contract with the board of guardians or district council (see *Le Feuvre v. Lankester*, 3 E. & B. 530, and *ante*, pp. 51, 55), but does not act during the continuance of the contract, he does not render himself liable to the above fine (*Lewis v. Carr*, 1 Ex. D. 484).

Persons
exempt from
the fine.

A person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body (M.C.A. s. 34, sub. 3); a person elected without his consent to his nomination being previously obtained (*ib.* sub. 6); a person who is elected guardian in more than one parish or other area in the poor law union, or urban district councillor in more than one ward in the urban district, for which the election is held, and who accepts office or pays the fine for non-acceptance of office in respect of one of such areas (*ib.* sub. 5); a person elected but not qualified for election (*R. v. Richmond*, 11 W. R. 65); and, *semble*, a person who accepts another office, and so vacates the office he held at the time of such acceptance (per Lindley, L.J., in *R. v. Bangor, Mayor, etc., of*, 18 Q. B. D. 366)—are not liable to the above fine.

A person who elects to pay the fine in lieu of

accepting office is exempt from liability to serve in the same office (M.C.A. s. 34, sub. 1); moreover, such a person cannot be compelled by mandamus to serve (*cp. R. v. Bower*, 1 B. & C. 585), or indicted at common law, nor can a criminal information be preferred against him for not serving. CHAP. VII.
—

If the guardian or councillor omits to sign the declaration within the month as above prescribed, his office becomes void, and a casual vacancy arises (M.C.A. s. 40, sub. 3), as to which, see *post*, p. 156. No declaration of the vacancy by the board or council is requisite, as is necessary in the case of disqualification, or of vacating a seat by absence (see *post*, p. 151). CASUAL
VACANCY.
—

Non-acceptance must be carefully distinguished from resignation. Non-acceptance is the case of one who has never accepted, and therefore never filled, the office in question; whereas resignation is the resignation of an office previously filled, and held by the person resigning up to the time of resignation. Distinction
between
non-accept-
ance and
resignation.

A person who has been nominated for the office of guardian may tender to the returning officer, or other officer conducting the election, his refusal in writing to serve such office, and if he does so, the election of guardians, so far as regards him, shall be no further proceeded with (5 & 6 Vict. c. 57, s. 9). As to what "writing" includes, see *ante*, p. 91. The following form is suggested, but any writing conveying a refusal to serve is sufficient. REFUSAL OF
GUARDIAN
TO SERVE.
—

Sir,

Having learnt that I have been nominated as Guardian for the Parish of _____, [or] Ward of _____, or United Parishes of _____, in the _____ Union, I beg to inform you that I refuse to serve the office of Guardian.

Dated this _____ day of December, 1894.

A. B.,
of (abode),
(description).

To the Returning Officer.

The refusal should be signed by the person nominated by his signature or mark, but this is not essential, it is sufficient that the writing be written and tendered by him, or by his authority.

The refusal must be tendered to the returning officer, or officer conducting the election, while the election is in progress; if tendered afterwards it is too late. The When re-
fusal can be
made.

CHAP. VII. — election is concluded, and is no longer in progress, in the case of an uncontested election, when it has been ascertained that the number of valid nominations does not exceed the number of persons to be elected (see *ante*, p. 125), and, in the case of a contested election, when the poll has closed, though in the latter case it may perhaps be argued and held that the election is in progress during the counting of the votes and until the result thereof has been ascertained. A refusal once tendered to the officer conducting the election cannot be withdrawn.

Only guardians can refuse to serve.

This power to refuse to serve is confined to the office of guardian and does not extend to that of rural or urban district councillor.

II.—RESIGNATION OF OFFICE.

GUARDIAN
AND RURAL
DISTRICT
COUNCILLOR.

Tender of
resignation.

A guardian who has not during the progress of the election refused to serve (see *ante*, p. 145), and a guardian or rural district councillor who has been elected, must either accept office or pay the fine for non-acceptance of office (*ante*, p. 141), or tender his resignation, and the Local Government Board may accept such resignation for any cause which they may deem reasonable (5 & 6 Vict. c. 57, s. 11). A rural district councillor is in the same position with respect to resignation as a guardian (L.G.A. s. 48, sub. 4 (a)). A guardian and a rural district councillor cannot therefore resign as of right, as can an urban district councillor (see *post*, p. 147).

The following form of tender is suggested :—

Union [*or* Rural District Council of].

I, *A. B.*, of [*insert abode and description*], being a person elected as a Guardian [*or* Rural District Councillor] for the Parish [*or* Ward, *or* United Parishes] of , in the above-named Union [*or* Rural District], do hereby tender my resignation of the said office of Guardian [*or* Rural District Councillor]. The cause for which I tender my resignation is that [*insert cause, such as illness, absence from the parish, inability to devote sufficient time to the duties of the office, or as the case may be*], and I request the Local Government Board to accept my resignation.

Dated this day of 189 .

(Signed) *A. B.*

When resignation complete.

The resignation is not complete until it has been accepted by the Local Government Board and they have signified their acceptance thereof.

The guardian or rural district councillor resigning must be a person who is capable of holding, and therefore of resigning, the office ; a person who is disqualified from holding, *e.g.* by bankruptcy, is incapable of resigning (*Hardwick v. Brown*, L. R. 8 C. P. 406). Again, a man cannot resign that to which he is not entitled, and which he has no right to occupy, and resignation implies that the person resigning has been elected into the office which he resigns (*R. v. Blizard*, L. R. 2 Q. B. 57). Therefore, where a relator on a quo warranto claims the office, resignation, whether before or after he applies for the quo warranto, is no answer to the proceedings ; for the relator is entitled to proceed to judgment of ouster, or until a disclaimer is entered, and so to a mandamus to be admitted to the office which he claims (*ib.*).

CHAP. VII.

Who can resign.

If the disqualification existed at the time of election, the guardian or councillor can be relieved of his office by election petition (L.G.A. s. 48, sub. 3 ; M.C.A. s. 87, sub. 1 (c), filed within twenty-one days after election (*ib.* s. 88, sub. 4) ; if it arose after election, by quo warranto applied for as soon as circumstances admit, and before the guardian or councillor's term of office expires (see *R. v. Hudson*, 4 Q. B. 648n) ; or by the board of guardians or rural district council declaring the office to be vacant under L.G.A. s. 46, sub. 7 (see *post*, p. 151). If none of these proceedings be taken, there is no other means by which the office of a disqualified guardian or rural district councillor can be vacated (see *Yates v. Leach*, L. R. 9 C. P. 609), but the guardian or councillor, if still disqualified, cannot act without incurring the fine imposed on a disqualified person who acts when disqualified (L.G.A. s. 46, sub. 8, and see *post*, p. 149).

Resignation creates a casual vacancy, as to which, see *post*, p. 156. No declaration by the board of guardians or rural district council that the office is vacant is necessary to make the vacancy complete, as is necessary in the case of the resignation of an urban district councillor (see *post*, p. 148).

Casual vacancy.

An urban district councillor who is capable of resigning (as to who are so capable, see *supra*) may at any time, as of right, by writing signed by him and delivered to the clerk of the urban district council, resign the office, on payment of the fine provided

URBAN DISTRICT COUNCILLOR.

Notice of resignation.

CHAP. VII. for non-acceptance thereof (see M.C.A. s. 36, sub. 1).
 — The writing may be in the following form :—

The District Council of

I, *A. B.*, having been elected Councillor for the [Ward of] the
 above-named District, hereby resign my office of District Councillor.

Dated this day of , 189 .

(Signed) *A. B.*

To the Clerk to the above-named District Council.

As to what "writing" includes, see *ante*, p. 91. The notice must be "signed" by the councillor resigning; the signature should be the member's usual signature. As to what is "signature," see *ante*, p. 116, and as to signature by a marksman, see *ante*, p. 117.

When re-
 signation
 complete.

The resignation is not complete until the writing has been delivered *and* the fine has been paid, but the clerk to the district council should receive the notice, even though it be unaccompanied by the fine, and although it is incomplete without the fine. If not paid, the council can perhaps enforce payment of the fine; but not, it would seem, by summary proceedings, sub. 4 of M.C.A. s. 34, not being re-enacted or applied to s. 36.

The district council have no power to waive payment of, or to remit, the fine. But, *semble*, a person who resigns one office in order to accept another, is not liable to the fine (per Lindley, L.J., in *R. v. Bangor, Mayor, &c.*, of, 18 Q. B. D. 366).

The resignation once complete cannot be withdrawn, even though the council be willing to assent to such withdrawal (see *R. v. Wigan, Mayor, &c.*, of, 14 Q. B. D. 908). Whether, if the writing has been delivered, and the fine paid, by mistake or inadvertence, the resignation can be withdrawn before it has been acted upon, and before any other person has altered his position in consequence thereof, is an undecided question; but until the resignation is complete (as to when it is complete, see *supra*) any inchoate act or writing (*e.g.* the expression of a wish or intention to resign), may, it is submitted, be withdrawn (see *ib.*).

Declaring the
 office vacant.

Although the resignation is complete on delivery of the writing and payment of the fine, the office is not vacant until the council have declared it to be vacant, and have signified the same by notice in writing, signed by three members of the district council, and countersigned by the clerk, and fixed on the principal external

gate or door of the offices of the district council (M.C.A. s. 36, sub. 2). This the council shall do forthwith on the writing being delivered and the fine paid (*ib.*); but, until the writing has been delivered *and* the fine has been paid, the office cannot be declared to be vacant; as to the meaning of "forthwith" see *ante*, p. 123. The council "declare" the office to be vacant, by resolution duly passed and entered in the minute book. The intended resolution must therefore be specified in the summons calling the council meeting, and the meeting of the council to declare the vacancy must be summoned in accordance with the regulations made by the particular district council for the transaction and management of their business (L.G.A. s. 59, sub. 1; P.H.A. sch. I. pt. I. r. 1), a quorum must be present (*ib.* r. 2), the resolution must be passed by a majority of members present and voting (*ib.* r. 7), and should be duly entered in the minute book (*ib.* r. 10). The notice signifying the resignation and declaration of the council may be partly in writing and partly in print, and the name and address of the printer and publisher of the notice should appear on the face thereof (M.E.C.I.P.A. s. 14). The three members signing may be any three, but are usually three of those present at the meeting of the council at which the declaration is made.

The resignation creates a casual vacancy, as to which see *post*, p. 156. The newly elected councillor retires at the time when the resigning councillor would have retired (M.C.A. s. 40, sub. 1).

III.—LOSS OF QUALIFICATION OR OFFICE.

If a guardian or an urban or rural district councillor becomes disqualified after election, he should immediately cease to act; for if any person acts when disqualified, he shall for each offence be liable, on summary conviction, to a fine not exceeding twenty pounds (L.G.A. s. 46, sub. 8). This is a penal enactment, and therefore to be construed strictly. It is not confined to disqualifications arising under the L.G.A., but extends to all disqualifications howsoever arising, though it probably applies only to cases of positive disqualification, and not to cases of mere loss of qualification (see *post*, p. 152).

What amounts to "acting" is a question of fact in each case. Taking part in a discussion by merely

ACTING
WHEN DIS-
QUALIFIED.

Fine.

What
amounts to
"acting."

CHAP. VII. — pointing out the consequences of such and such a course may not amount to "acting," but attending as a member at a meeting of the board or council, using influence over his brother members by word and action, even though the speaker does not vote, is evidence to show "acting," and voting certainly is an "act" within the above enactment (see *Charlestown v. Rudgard*, 1 C. M. & R. 498). A member who sat in that part of the room assigned to the general public, took no active part in the proceedings, and was entered on the minutes as "remained neutral," was yet held to have been present at the meeting, and to have taken a part in the proceedings (*Richardson v. Methley School Board* (1893), 3 Ch. D. 510).

The prosecution for the conviction and fine is by information, which may be laid by anyone. There is no appeal to quarter sessions, but a case upon a point of law may be applied for and granted, either under 20 & 21 Vict. c. 43, s. 2, or under the Summary Jurisdiction Act (42 & 43 Vict. c. 49, s. 33). There is no appeal to the Court of Appeal from the decision of the High Court upon such case (36 & 37 Vict. c. 66, s. 47). The penalty may be enforced, although, through lapse of time, the election of the councillor can no longer be questioned (*De Souza v. Cobden* (1891), 1 Q. B. 687). Each separate "act" constitutes a separate offence, and thus involves a separate prosecution and penalty. The amount of the fine to be imposed is in the discretion of the justices.

But a person who acts after his disqualification has ceased cannot be convicted, and is not liable to the fine (*Lewis v. Carr*, 1 Exch. D. 484). If, however, he acts after his office has been declared by the board or council to be vacant (under L.G.A. s. 46, sub. 7, *post*, p. 151), he is liable to be convicted and fined (see *Fletcher v. Hudson*, 7 Q. B. D. 611).

ABSENCE FOR
SIX MONTHS.

— If a member of a board of guardians, or of an urban or rural district council, is absent from meetings of the board or council for more than six months consecutively, except in case of illness or for some reason approved by the board or council, his office shall on the expiration of those months become vacant (L.G.A. s. 46, sub. 6). This provision is similar to rule 12 in sch. II. pt. I. of 33 & 34 Vict. c. 75. The absence from meetings will be *prima facie* proved by the minute book of the board

or council or guardians' or councillors' attendance CHAP. VII.
book.

A person who is absent by reason of lunacy is, it is submitted, absent in case of illness; and if his illness is incurable, he is probably removable by quo warranto as being no longer a fit person to serve. The board or council are the judges in the first instance whether there has been such an "illness" as justifies the absence (*Richardson v. Methley School Board* (1893), 3 Ch. 510, 517). Through illness.

The "reason" for the absence must be "approved by the board or council" before the expiration of six months, or the office will be vacant. The proper course seems to be for the member to submit his "reason" to the board or council for their approval, and to apply for leave of absence for some definite and stated period. The approval will be by resolution duly entered in the minute book. "Month" means calendar month (52 & 53 Vict. c. 63, s. 3), and the six months are to be reckoned from the first meeting of the board or council which the member fails to attend, not from the last meeting which he has attended. For approved reason.

Apparently a person who vacates his seat under this sub-section, is disqualified during the remainder of the year for which he was elected, but is then, if otherwise duly qualified, re-eligible (see *R. v. Turmine*, 4 Q. B. D. 79).

Where a member of a board of guardians, or of an urban or rural district council becomes disqualified for holding office, or vacates his seat for absence, the board or council shall forthwith declare the office to be vacant, and signify the same by notice signed by three members and countersigned by the clerk of the board or council, and notified in such manner as the board or council direct, and the office shall thereupon become vacant (L.G.A. s. 46, sub. 7). This provision is based upon that in M.C.A. s. 39, sub. 2, but is far larger in its terms, inasmuch as it extends to all cases of disqualification, whereas the provision in M.C.A. is limited to the specific disqualifications therein mentioned. It is a remedial and not a penal enactment, and as it offers a simple method of establishing a vacancy, and so of paving the way for a new election without the delay or expense of legal proceedings, it should, it is submitted, be construed liberally and beneficially. VACANCY
BY DISQUALI-
FICATION OR
ABSENCE.

CHAP. VII.

Whether dis-
qualification
includes
cesser of
qualification.

It is said, however, that this provision is confined to cases where a person becomes positively disqualified under the L.G.A. or otherwise, and that it does not include the case of a person who simply ceases to possess the qualification necessary for the office which he holds. Until the question has been raised and judicially decided, its solution can be only a matter of opinion; but it is extremely difficult to distinguish between disqualification and loss of qualification, and there seems to be no sufficient reason for holding that the board or council cannot declare to be vacant the office of a person who has lost his qualification, and is thus disqualified for want of a qualification, when it is admitted that they can declare to be vacant the office of a person whose qualification is destroyed by a disqualification.

Notice to
person
affected.

Whenever the board of guardians or district council act under the above provision, they do so judicially, and must proceed strictly and regularly in the exercise of the jurisdiction thus vested in them. They must not, therefore, decide any case of alleged disqualification or absence without giving the member concerned an opportunity of defending himself, and of showing, if he can, that he is not disqualified or has not vacated his office; if he does not, after due notice, avail himself of such opportunity, the board or council should not declare the office to be vacant except on sufficient *prima facie* evidence of the facts constituting disqualification or establishing the absence (see *Richardson v. Methley School Board* (1893), 3 Ch. D. 510); and unless the facts show a clear case of disqualification or absence, it is submitted that the better course is to leave the parties interested to take such steps as they may be advised. Where, however, a clear case of disqualification, or of a seat being vacated for absence, is established, it is the duty of the board or council under the Act to declare the office to be vacant (see *per* Keating, J., in *Hardwick v. Brown*, L. R. 8 C. P. 413).

Vacancy
when com-
plete.

Notwithstanding the provision that the office of a member who is absent for six months shall, on the expiration of those months, become vacant (L.G.A. s. 46, sub. 6, *ante*, p. 150), the vacancy is not complete until the board or council have declared the office to be vacant, and have signified and notified their declaration in the mode required where a member becomes disqualified

(see L.G.A. s. 46, sub. 7, *ante*, p. 151). If instead of declaring the office to be vacant, the board or council do nothing, and the disqualification of the member ceases, and he is subsequently re-elected for a further term of office on a new election, the office is full, and it is then too late for the board or council to declare the office lately held by the guardian or councillor to be vacant (see *R. v. Welchpool, Mayor, etc., of*, 35 L. T. 595). Under no circumstances can the board or council fill the vacancy at the same meeting as that at which the vacancy is declared. The vacancy must be complete before it can be filled, and when complete, there must be proper notice of the meeting to fill the vacancy before the board or council can proceed to fill it. If, instead of declaring the office to be vacant as required by the statute, the board or council decline to do so, the remedy is by mandamus, and meanwhile the vacancy continues, and no fresh election can be held.

The board of guardians or district council “declare” the office to be vacant by resolution duly passed and entered in the minute book. The meeting to pass the resolution must therefore be summoned in accordance with the regulations made by the particular board or district council for the transaction and management of their business (L.G.A. s. 59, sub. 1; P.H.A. sch. I. pt. I. r. 1), a quorum must be present (*ib.* r. 2), and the resolution must be passed by a majority of votes of the members present and voting (*ib.* r. 7), and should be duly entered in the minute book (*ib.* r. 10).

RESOLUTION
DECLARING
VACANCY.
—

The entry in the notice summoning the meeting may be in the following form :—

To declare the office of Guardian [*or* Urban District Councillor, *or* Rural District Councillor] lately held by *A. B.*, of _____, in this Parish [*or* District], to be vacant, he having become disqualified for holding such office by reason of [*here concisely state the facts constituting the disqualification* ; *or*, he having vacated his seat by being absent from meetings of the Board [*or* Council] for more than six months consecutively, such absence not having been occasioned by illness, *or* for any reason approved by the Board [*or* Council].

The resolution may be as follows :—

Resolved—

That as *A. B.*, of _____, has become disqualified for holding the office of Guardian [*or* Urban District Councillor *or* Rural District Councillor] in this Parish [*or* District] by reason of [*here concisely state the facts constituting the disqualification, as in the notice convening the meeting*] ; *or*, has vacated his seat of Guardian [*or* Councillor], in this

CHAP. VII.

Parish [*or* District] by being absent from meetings of this Board [*or* Council] for more than six months consecutively, such absence not having been occasioned by illness, or for any reason approved by this Board [*or* Council], we, the Board [*or* Council], in pursuance of the Local Government Act, 1894, section 46, sub-section 7, do now declare the office of Guardian [*or* Councillor] lately held by the said *A. B.* to be vacant.

Notice sign-
ifying
declaration.

The notice signifying the declaration of the board or council may be in the following form :—

Union of

Parish of [*or* District of .]

Whereas *A. B.*, of was on or about the day of , 1894, duly elected a Guardian [*or* Urban District Councillor, *or* Rural District Councillor] for the Parish [*or* District] of and duly signed a declaration accepting the said office : And whereas the said *A. B.* has since become disqualified for holding the said office by reason of [*here concisely state the facts constituting the disqualification ; or*, has vacated his seat by being absent from meetings of the board [*or* council] for more than six months consecutively, such absence not having been occasioned by illness, or for any reason approved by the board [*or* council.] And whereas in pursuance of the Local Government Act, 1894, section 46, sub-section 7, the Board of Guardians [*or* Urban District Council, *or* Rural District Council] on the day of , at a duly convened meeting of the Board [*or* Council], declared the office of Guardian [*or* Councillor] lately held by the said *A. B.* to be vacant. Now therefore the said declaration of the said Board [*or* Council] is hereby signified to all persons whom it may concern.

Dated this day of , 189 .

(Signed)	C. D.	{	Guardians of the above-named Union [<i>or</i>
	E. F.		Members of the District Council of the
	G. H.		above-named District.]

I. K.,

Clerk to the Guardians [*or* to the District Council] of .

The three members signing the notice may be any three members of the board or council, but preferably should be three of those present at the meeting at which the declaration is made. The signatures need not, it seems, be affixed to the notice at the meeting of the board or council at which the declaration is made ; the notice need not, and perhaps cannot, be prepared until after the declaration has been made, and the meeting is over. As to what is "signed," see *ante*, p. 116.

The notice must be "notified in such manner as the board or council direct." The board or council should therefore specify in each case what notification they think needful or desirable ; and as the notice is evidently to be a public notice, it is submitted that it should be given in the manner prescribed by the Act in respect to a public notice (L.G.A. s. 51, and see *ante*, p. 100).

The proceedings of a board of guardians or urban or rural district council shall not be invalidated by any vacancy or vacancies among their members, or by any defect in the election of such board or council, or in the election or qualification of any members thereof (L.G.A. s. 59, sub. 1; P.H.A. sch. I. pt. I. r. 9); and where a member of the board or council is, by a certificate of an election court or a decision of the High Court, declared not to have been duly elected, acts done by him in execution of the office to which he was elected, before the time when the certificate or decision is certified to the clerk of the board or council shall not be invalidated by reason of that declaration (L.G.A. s. 48, sub. 3; M.C.A. s. 102). These enactments are intended to prevent the consequences which would arise, if the proceedings of the board or council could be impeached as done without authority because the board or council was irregularly constituted; they protect third parties dealing *bonâ fide* with the board or council without notice of irregularity, and render such dealings valid (*Newhaven Local Board v. Newhaven School Board*, 30 Ch. D. 350). But, *semble*, they do not apply between the board or council and any member who is disqualified or was unduly elected, nor afford to such a member a valid answer to a quo warranto (*ib.*).

The title to office of a person who was disqualified at the time of his election is questioned by election petition (see *post*, p. 338), and that of a person who has become disqualified after election, by quo warranto (see *post*, p. 348), or by declaration of the board or council (see *ante*, p. 151).

CHAP. VII.
—
VALIDITY OF
ACTS OF
PERSON IN
OFFICE.
—

Contesting
the qualifi-
cation.

CASUAL VACANCIES AND BYE-ELECTIONS.

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The M.C.A., as adapted and altered by G.O. r. 26, par. 1, by R.O. r. 25, par. 1, and by U.O. r. 25, par. 1, is applied to the election of guardians and urban and rural district councillors by L.G.A. s. 48, sub. 4. The provisions of the M.C.A. have in many instances been materially altered by the above-mentioned Orders from those which appear in the Act itself, and are consequently cited, not from that Act, but from the schedules to the rules in the G.O., R.O., and U.O. respectively.

A casual vacancy may arise in the office of guardian or urban or district councillor by reason of :—

- (1.) Death.
- (2.) Non-acceptance of office (see *ante*, p. 145).
- (3.) Resignation (see *ante*, p. 147).
- (4.) Absence for six consecutive months (see *ante*, p. 150).
- (5.) Receipt of union or parochial relief (see *ante*, pp. 52, 53).
- (6.) Conviction and imprisonment for crime (see *ante*, pp. 52, 53).
- (7.) Bankruptcy, composition or arrangement with creditors (see *ante*, pp. 52, 53).
- (8.) Acceptance of a paid office under the board of guardians or district council (see *ante*, pp. 52, 55).

- (9.) Being concerned in any bargain or contract with the board or council (see *ante*, pp. 52, 55). CHAP. VIII
- (10.) Participation in the profit of any such bargain or contract, or in any work done under the authority of the board or council (see *ante*, pp. 52, 55).
- (11.) Being convicted, or reported guilty of a corrupt practice at an election (see *ante*, p. 60).
- (12.) Being a candidate at an election which has been avoided for extensive illegal practices or offences of illegal payment, employment, or hiring (see *ante*, p. 62).
- (13.) Avoidance of election on election petition (see *infra*, and *post*, p. 338).
- (14.) Ouster on quo warranto (see *post*, p. 348).
- (15.) Cesser of qualification (see *ante*, p. 31).

Where on an election petition the election of a guardian or district councillor has been declared void, and no other person has been declared elected in his room, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy; and for the purposes of the election any duties to be performed by the chairman of the board of guardians or district council or other officer, shall, if he has been declared not elected, be performed by a deputy, or other person who might have acted for him if he had been incapacitated by illness (see M.C.A. s. 103). A copy of the certificate of the result of the trial (or a statement of the decision, if the petition be determined by special case) shall be certified by the High Court to the returning officer (*ib.* s. 93, sub. 13). Avoidance of election on election petition.

On a casual vacancy, an election shall be held in accordance with rules framed under the L.G.A.; and the person elected shall hold the office until the time when the person in whose place he is elected would regularly have gone out of office, and he shall then go out of office (M.C.A. s. 40, sub. 1). Therefore, where an election is held to supply a casual vacancy on the same day as an election held to supply an ordinary vacancy, care should be taken that, in the notice of the election, ballot papers, statement as to persons nominated, &c., a distinction is preserved between the two vacancies and classes of candidates, so that it may appear who is to fill the casual, and who the ordinary, vacancy (see *R. v. Rowley*, 3 Q. B. 143; in error, 6 Q. B. 668). BYE ELECTION.
Term of office of person elected.

CHAP. VIII.

In case of more than one casual vacancy in the office of guardian or rural or urban district councillor being filled at the same election, the guardian or councillor elected by the smallest number of votes shall be deemed to be elected in the place of him who would regularly have first gone out of office, and the guardian or councillor elected by the next smallest number of votes shall be deemed to be elected in the place of him who would regularly have next gone out of office, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of rotation shall be determined by the board of guardians or district council (M.C.A. s. 40, sub. 2), *i.e.* by a majority present and voting at a duly convened meeting at which a quorum is present (L.G.A. s. 59, sub. 1; P.H.A. sch. I. pt. I. rr. 1, 2, 7).

Time of
election.

On a casual vacancy, the election shall be held within one month after notice in writing of the vacancy has been given to the chairman of the board of guardians or district council, or to the clerk, by two guardians, or councillors (M.C.A. s. 66, sub. 1). "Month" means calendar month (52 & 53 Vict. c. 63, s. 3), and the month is to be reckoned inclusively of the day of election, and exclusively of the day of giving the notice, and the notice of election must be given in sufficient time to enable the election to be "held," *i.e.* commenced and completed, within the month. The notice of vacancy may be given immediately after the vacancy has arisen. An election to fill a casual vacancy may be held on the same day as an election to fill an ordinary vacancy, but each election must be kept distinct, and there must therefore be separate notices, nomination papers, ballot papers, &c. (*R. v. Rowley*, 3 Q. B. 143; *R. v. Rippon*, 1 Q. B. D. 217). It is submitted that if a candidate stand and be elected both for an ordinary and for a casual vacancy, he may elect for which office he will serve; and that the other election being thus rendered nugatory, a fresh casual vacancy arises, upon which a fresh election may, on proper notice of the facts being given (M.C.A. s. 66, sub. 1), be held.

Day of
election.

The day of election shall be fixed by the clerk to the guardians or district council (M.C.A. s. 66, sub. 3).

Not within
six months
of ordinary
election.

A returning officer is not authorized or required to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retire-

ment from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election (L.G.A. s. 48, sub. 4 (*b*) ; M.C.A. s. 66, sub. 4). CHAP. VIII.
—

In the event of any vacancy occurring in a board of guardians, by the death, removal, or resignation, or refusal, or disqualification to act of any elected guardian between the periods of such first and the next and any subsequent annual election, the others or remaining members of the said board shall continue to act until the next election, or until the completion of the said board, as if no such vacancy had occurred, and as if the number of such board were complete (4 & 5 Will. IV. c. 76, s. 38). This provision applies only to boards of guardians, but although there is no similar enactment with regard to district councils, they are similarly able to act, although their full number be not complete. The above provision enables a board of guardians to act notwithstanding vacancies in the board, but does not enable them to act if such vacancies reduce their number below a quorum (as to which, see *ante*, p. 6). CAPACITY OF
REMAINING
GUARDIANS.
—

As to the removal of difficulties in respect to elections, and as to the consequences of a failure to elect, see *ante*, pp. 14, 16.

PART IV.

CONTESTED ELECTIONS.

CHAP. IX.

CHAPTER IX.

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A.—STAFF AND OFFICERS.

The B.A. and the M.C.A., as adapted and altered by the G.O., R.O., and U.O., are applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3. The provisions of the B.A. have in many cases been materially altered by the above-named Orders from those which appear in the B.A. itself, and are consequently cited, not from that Act, but from the schedules to G.O. r. 25, R.O. r. 24, and U.O. r. 24.

The returning officer, or some officer appointed by him for the purpose, shall preside at each station (G.O. r. 17 ; R.O. r. 16 ; U.O. r. 16). The appointment of such an officer is usually in writing, but a verbal appointment is apparently sufficient (*R. v. Garvey*, 16 Cox C.C. 252).

It seems that the returning officer cannot permit the presiding officer to be changed during the poll (see *R. v. London, Mayor of*, 9 B. & C. 1 ; and see G.O. r. 17 ;

CHAP. IX. R.O. r. 16; and U.O. r. 16, which only authorize the appointment of "some person" to preside at each station). If this view be sound, the returning officer cannot appoint two or more presiding officers to relieve each other during the day, or supernumerary presiding officers to fall back upon in case of accident or necessity, or an extra presiding officer to attend to illiterate voters. The returning officer may, if he think fit, act as presiding officer at any polling station (B.A. r. 47); but it is unwise for him so to act in any parish, district, or ward where there is more than one polling station, as his presence may be required elsewhere. In making these appointments, the returning officer should, as far as practicable, secure the services of suitable persons resident in the parish, district, or ward, so as to diminish expense, and in elections for rural district councillors he shall do so (R.O. r. 16 (*b*)). Where in any case this is not practicable, or where there is no suitable person in the parish, district, or ward, he should seek his presiding officers from the nearest or most accessible place.

Form of appointment. The following form of appointment in the case of an election of guardians is suggested:—

Union of .
 Election of Guardians [and Urban District] Councillors, in the year 1894.
 Parish of [or Ward of the Parish of or United
 Parishes of].
 I do hereby appoint S. T., of , to act as presiding officer
 [poll clerk] at polling station No. , in polling district No. .
 Dated this day of , 189 . Y. Z.

Returning Officer.

I accept the above appointment.

(Signed) S. T.

The above form can, with slight alterations, be adapted for elections of urban or rural district councillors.

Qualification. Any fit person (as to who is a fit person, see *ante*, p. 93) is eligible as presiding officer, who is of full age (*Belfast*, B. & Aust. 555), and who has not been employed by any other person in or about the election (B.A. r. 49).

Declaration of secrecy. The presiding officer must make the declaration of secrecy (B.A. r. 54; and see *post*, p. 197).

Duties. Speaking generally, the presiding officer's duties are to preside at each polling station (G.O. r. 17; R.O. r. 16;

U.O. r. 16) ; to keep order at such station (B.A. r. 21) ; to regulate the number of electors to be admitted at a time (*ib.*) ; to exclude all other persons, except the clerks, the agents of the candidates, the constables on duty (*ib.*), and the candidates (*Clementson v. Mason*, L. R. 10 C. P. 209) ; to see that the provisions as to secrecy are duly observed (see B.A. s. 4) ; to give certain offenders into custody (*ib.* s. 9) ; to see that each ballot paper is properly stamped before it is issued, that none but stamped ballot papers are inserted in the ballot box, and that no ballot paper is taken out of the station (see *Pickering v. James*, L. R. 8 C. P. 489) ; and to mark the ballot papers of all blind, physically incapable, or illiterate voters, and of Jewish voters, if the poll be taken on Saturday (B.A. r. 26).

At any polling station in an election of guardians or urban district councillors, the same person shall act as presiding officer for the election of guardians and urban district councillors, the polls for which are to be taken together (G.O. r. 17 ; U.O. r. 16). At any polling station in an election of rural district councillors the same person shall act as presiding officer for the election of rural district councillors, and of any parish councillors to be elected at the same date in the parish (R.O. r. 16 (a) ; P.O. r. 26 (a)).

The returning officer should see that all his presiding officers are fully instructed and clearly understand their duties, and it is often advisable to hold a meeting before the opening of the poll, at which these duties can be further explained and discussed. A letter summoning such a meeting may be as follows :—

Sir,

Union of

Parish of
Parishes of

[or
].

Ward of the Parish of or United

Election of Guardians [and Urban District] Councillors in the year 1894.

I beg to inform you that I have appointed you to act as a presiding officer [or poll clerk] at the forthcoming election of guardians [and urban district] councillors to be held at on next, the inst., and that your attendance will be required at the polling station to which you may be appointed, from o'clock in the noon, until the close of the poll at o'clock in the evening.

I request your attendance at a meeting which will be held in on the next at o'clock in the noon precisely, for the purpose of making and subscribing the declaration of secrecy,

CHAP. IX.

and of receiving the necessary instructions. *If not then present*, your place will be supplied by the appointment of another presiding officer [or poll clerk].

I am, Sir,
Your obedient servant,
Y. Z.

Returning Officer.

Office for purpose of election.

Dated this day of 189 .

Such a meeting conduces to uniformity of procedure, and the interchange of views and difficulties tends to the perfecting of the organisation, and is otherwise often very advantageous. The working of the ballot may be rehearsed, and an imaginary poll taken, both as to literate and illiterate voters, and the various contingencies that may arise during the poll may be considered.

The presiding officer and his poll clerks have power to put the questions permitted to be put to voters, and to administer the oath and affirmation (B.A. s. 10 ; and see *post*, pp. 250, 253).

The presiding officer may delegate to the clerks appointed to assist him, any act which he is required or authorized to do by the B.A. at a polling station, except ordering the arrest, exclusion, or ejection of any person (B.A. r. 50).

For the purpose of the adjournment of the poll, and of every other enactment relating to the poll, a presiding officer has the power by law belonging to a deputy returning officer in a parliamentary election (B.A. s. 10), and may therefore adjourn the poll if the proceedings are interrupted or obstructed by any riot or open violence (as to which, see Election Agent, p. 239).

Right to vote.

Apparently a presiding officer may, if reasonably necessary, leave his polling station (see *Pickering v. James*, L. R. 8 C. P. 489), and may therefore do so to vote, and his vote could not be refused, and would not be bad. Upon the same reasoning he may vote at his own station, if that is the station to which he is assigned. But it is better not to appoint electors as presiding officers ; and if this is impossible, it is desirable that a presiding officer should not vote, unless he can do so at his own station, as if he quit his station, he must delegate his principal function of general presidency, and yet cannot delegate all his functions to his poll clerk ; and thus the general progress of the election may be delayed,

mischievous may arise, and the presiding officer may become liable to the candidate or elector thereby damnified. CHAP. IX.

The remuneration of a presiding officer should be a reasonable fee, and must not exceed any limit contained in the scale fixed by the county council, or Local Government Board, as the case may be (see L.G.A. s. 48, sub. 7). Remuneration.

If the presiding officer commit any breach of duty whereby a candidate has lost his election, he is liable to an action at the suit of the party aggrieved, although no malice or want of reasonable care be proved against him (*Pickering v. James*, L. R. 8 C. P. 489). For any wilful misfeasance, or any wilful act or omission in contravention of the B.A., he shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission, a penal sum not exceeding £100 (B.A. s. 11); and he is further liable to the penalties of misdemeanor for certain offences in respect to ballot papers and ballot boxes (*ib.* s. 3); and to imprisonment if he infringe the provisions as to the secrecy of the ballot (*ib.* s. 4). Liabilities.

The presiding officer cannot, nor can his partner or clerk, act as agent for any candidate at the election for which he acts as presiding officer (B.A. s. 11). Incapacities.

The returning officer shall also appoint such a number of poll clerks to attend at the polling station to assist the presiding officer as may be necessary for effectually conducting the election (B.A. ss. 8, 10). It is desirable to appoint such a number as will leave the presiding officer free to attend to his exclusive duties (*ib.* r. 50); to his duty of superintending everything (*ib.* r. 21), and to watching the ballot box and ballot papers. The returning officer should, as in the case of presiding officers (as to which see *ante*, p. 162), appoint as poll clerks persons resident in the parish. For a form of appointment, see *ante*, p. 163. POLL
CLERKS.
Appointment.
Number.

The qualification is the same as in the case of a presiding officer, as to which, see *ante*, p. 162. Qualification.

The poll clerk must make the declaration of secrecy (B.A. r. 54; and see *post*, p. 197).

The duties of the poll clerks are fully detailed in Chap. XI., *post*, p. 237. The returning officer should hold a meeting of the poll clerks, in the same manner as with his presiding officers (*ante*, p. 163). Duties.

The presiding officer may delegate to his poll clerks

CHAP. IX. — any act authorized by the B.A. to be done by him at a polling station, except ordering the arrest, exclusion, or ejection of any person (B.A. r. 50).

The poll clerk can put the questions and administer the oath and affirmation, authorized by law, to be asked of and administered to voters (B.A. s. 10, and see *post*, pp. 250, 253).

Liabilities. The liabilities of a poll clerk are similar to those of the presiding officer (*ante*, p. 165).

Right to vote. The poll clerk can vote, and the objections to his voting are not so great as in the case of presiding officers (see *ante*, p. 164); but as with them, it is better to appoint persons as poll clerks who are not parochial electors, or are willing to abstain from voting. If, however, electors are appointed as poll clerks, it is desirable to post them to the stations at which they are respectively assigned to vote.

Remuneration. The same remarks apply as to remuneration as in the case of a presiding officer (see *ante*, p. 165).

CONSTABLES. — The returning officer should also provide a sufficient attendance of constables or peace officers at each polling station.

Duties. The duties of the constable are to obey the orders of the presiding officer (see B.A. r. 21); to admit no greater number of electors than shall be sanctioned by the presiding officer (*ib.*); to remove any person whom the presiding officer may order him to remove, and to detain in custody any such person if charged with the commission in the polling station of any offence (B.A. s. 9); to take into custody any person accused of personation whom the presiding officer may order him to take into custody (6 & 7 Vict. c. 18, s. 86; B.A. s. 24), and to take such person, at the earliest convenient time, before two justices or a justice (6 & 7 Vict. c. 18, s. 87; B.A. s. 24); to maintain, and aid in maintaining, the secrecy of the voting; to assist in preventing persons communicating information as to the electors who have or have not applied for ballot papers, or voted, or as to the official mark; and to prevent persons from interfering with a voter when marking his vote (B.A. s. 4; and see the instructions given to the policeman in the *Drogheda* case, 2 O'M. & H. 204).

Declaration of secrecy. It is not clear under B.A. r. 54, whether a constable is included in the term "officer," or whether it is intended that the constables or peace officers, whom the returning

officer is required to have in attendance for the purpose of taking into custody any person charged with personation (6 & 7 Vict. c. 18, s. 86; B.A. s. 24), are to make the declaration of secrecy. In practice, this declaration is not generally made by constables or peace officers (see, for example, *Drogheda*, 2 O'M. & H. 206), but there seems no reason against their making the declaration, and if they are stationed inside the polling station, or inside the room or place where the votes are counted, they fall within the words of B.A. r. 54, and ought, it is submitted, to have previously made the declaration.

The returning officer may, in addition to any clerks, appoint "competent persons" to assist him in counting the votes (B.A. r. 48). These "competent persons" may, it is submitted, include a legal adviser, or expert in election law, to assist the returning officer in deciding any question that may arise on irregularly marked ballot papers, or otherwise in connection with the counting of the votes and declaration of the result. There is no limit upon the number of clerks and competent persons that should be appointed, further than that the total number must only be such as may be necessary for effectually doing the work (B.A. s. 8). These competent persons and clerks must make the declaration of secrecy (B.A. r. 54; and see further hereon, *post*, p. 197).

COUNTING
ASSISTANTS
AND CLERKS.

Appointment
and number.

The following is a form of appointment :—

Form.

Union of .
Parish of [or Ward of the Parish of or United
Parishes of].
Election of Guardians [and Urban District] Councillors, in the year
1894.

I do hereby appoint T. T., of , to act as counting assistant,
and to attend at for the purpose of assisting me in counting the
votes at the above-named election.

Dated this day of , 189 .

Y. Z.,

Returning Officer.

I accept the above appointment.

(Signed) T. T.

The only qualification required in a counting assistant Qualification.
is that he shall be "competent," *i.e.* competent to assist
the returning officer in counting the votes (B.A. r. 54).
He must not be employed by any other person in or
about the election (*ib.* r. 49), but there seems to be no
objection to appointing an elector, or a minor if he be

CHAP. IX. — “competent.” The counting assistant should be resident in the neighbourhood of the place of counting, or if the returning officer be unable to obtain a person so resident, he should appoint him from the next nearest or most accessible place; if the returning officer unnecessarily bring his counting assistants from a distance, their travelling expenses may be wholly or partly disallowed, and he may have to pay the sums disallowed out of his own pocket (see *re Cumberland Elections*, 30 Solicitors’ Journal, 749, 755, 772).

Duties. The duties of the counting assistant are to assist the returning officer in counting the votes (B.A. r. 48), and these duties are discussed at length in Chap. XII., *post*, p. 263). The returning officer should hold a meeting of his counting assistants before the poll day for the purpose of mutual discussion and instruction. The method to be pursued at the counting may be rehearsed, and the various difficulties and contingencies that may arise and errors that should be avoided, may be considered. The following is a form of letter summoning such a meeting:—

Sir,
Union of .
Parish of [or Ward of the Parish of or United
Parishes of].

Election of Guardians [and Urban District] Councillors, in the year
1894.

I beg to inform you that I have appointed you one of my counting assistants at the above-named election, and I request your attendance at a meeting of counting assistants which will be held in on the instant, at o'clock in the noon precisely, for the purpose of making and subscribing the declaration of secrecy, and of receiving the necessary instructions.

I am, Sir,
Your obedient servant,
Y. Z.

Returning Officer.

Dated this day of 189 .

Right to vote. Inasmuch as the poll is over before the duties of the counting assistant begin, there is no objection to his voting.

Remuneration. The remuneration of each counting assistant should be a reasonable fee, and must not exceed any limit contained in the scale fixed by the county council or Local Government Board, as the case may be (see L.G.A. s. 48, sub. 7).

Liabilities. The counting assistant, if he commit any breach of

duty whereby the candidate has lost the election, is liable to an action at the suit of the party aggrieved (see *Pickering v. James*, L. R. 8 C. P. 489; *acc. Thornbury*, 16 Q. B. D. 752), though not for a mere mistake on a point of law (see cases cited, Election Agent, pp. 50, 51). He is also liable to a penalty of not exceeding £100 for any wilful misfeasance, or any wilful act or omission, in contravention of the B.A. (B.A. s. 11). He is guilty of misdemeanor, and is liable to imprisonment for not exceeding six months, with or without hard labour, if he forges or counterfeits, or fraudulently defaces or destroys, any ballot paper, or the official mark on any ballot paper, or, without due authority destroys, takes, opens, or otherwise interferes with, any ballot box or packet of ballot papers then in use for the purposes of the election (B.A. s. 3); he is also liable to a similar imprisonment if he infringe the secrecy of the ballot (*ib.* s. 4); and he, his partner and clerk, is also guilty of misdemeanor, if he or either of them act as agent for any candidate in the management or conduct of his election as a parish councillor (B.A. s. 11). As to proceeding for these offences, see Election Agent, pp. 478, 474, 475, 480.

The counting assistant cannot, nor can his partner or clerk, act as agent for any candidate in the management or conduct of his election as a guardian or district councillor, at the election for which he acts as counting assistant (B.A. s. 11). Incapacities.

B.—POLLING DISTRICTS, POLLING PLACES, AND POLLING STATIONS.

The B.A., M.C.A., and M.E.C.I.P.A., as adapted by the G.O., R.O., and U.O., are applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3. The provisions of the B.A. have, in many cases, been materially altered by the above-named orders from those which appear in the B.A. itself, and are consequently cited, not from that Act, but from the schedules to G.O. r. 25; R.O. r. 24; and U.O. r. 24.

A polling district is a portion of a parish; a polling place is the place in the parish at which the poll is taken; a polling station is the room or building in a polling place at which the votes are given. DEFINITIONS.

In an election of guardians—(a.) If the parish is

CHAP. IX.

POLLING
DISTRICTS.

Guardians.

divided into wards for the election of urban district councillors, including the councillors of a borough, the whole of each such ward being comprised in the parish, and the lists of parochial electors are made out in separate parts for such wards, each ward shall be a polling district for the election of guardians (G.O. r. 14, par. 1). (*b.*) If the parish is not so divided, but is divided into polling districts for the election of county councillors, or if it is not divided into such polling districts, but is divided into polling districts for the election of the councillors of a borough, the whole of each such district being comprised in the parish, and the lists of parochial electors are made out in separate parts for such districts, each district shall be a polling district for the election of guardians (*ib.*) (*c.*) If neither paragraph (*a.*) nor paragraph (*b.*) of this rule applies to the parish, the returning officer may, if he thinks fit, divide the parish into polling districts for the election of guardians, but each district shall consist of an area for which separate lists of parochial electors will be available (*ib.*). (*d.*) The polling districts for the election of guardians and of any urban district councillors, when the polls for the two elections are taken together, shall be the same (*ib.*); as to when the polls for the two elections are taken together, see *post*, p. 183.

Rural district
councillors.

In an election of rural district councillors: (*a.*) If the parish is divided into polling districts for the election of county councillors or of parish councillors, the whole of each such district being comprised in the parish, and the lists of parochial electors are made out in separate parts for such districts, each district shall be a polling district for the election of rural district councillors (R.O. r. 13, par. 1; and see P.O. r. 21, par. 1). (*b.*) If the parish is not so divided, but is divided into wards for the election of parish councillors, each ward shall be a polling district for the election of rural district councillors (*ib.*). (*c.*) If neither paragraph (*a.*) nor paragraph (*b.*) of this rule applies to the parish, the returning officer may, if he thinks fit, divide the parish into polling districts for the election of rural district councillors, but each district shall consist of an area for which separate lists of parochial electors will be available (*ib.*) (*d.*) The polling districts for the election of rural district councillors and of any parish councillors elected at the same date in the parish shall be the same (*ib.*)

In an election of urban district councillors : (a.) Any parish, or, where a parish is united with another parish for the election of guardians, the united parishes, shall, if wholly comprised in the urban district, be a polling district, or be subdivided into polling districts for the election of urban district councillors, if a poll for the said elections and a poll for the election of guardians will be taken together (U.O. r. 13, par. 1) ; as to when a poll for the two elections will be taken together, see *post*, p. 183. (b.) If any parish is divided into wards for the election of guardians, paragraph (a.) of this rule shall apply with the substitution of "ward" for "parish" (*ib.*). (c.) Provided that if any parish, united parishes, or ward of a parish for the election of guardians is or are divided into polling districts for the election of county councillors, the whole of each polling district being comprised in the parish, united parishes, or ward, and the lists of parochial electors are made out in separate parts for such polling districts, each district shall, if a poll for the election of urban district councillors and a poll for the election of guardians will be taken together, be a polling district for the election of urban district councillors (*ib.*). (d.) Subject as aforesaid, the returning officer may, if he thinks fit, divide the district into polling districts for the election of urban district councillors, but each district shall consist of an area for which separate lists of parochial electors will be available (*ib.*). (e.) The polling districts for the election of urban district councillors and of any guardians when the polls for the two elections are taken together shall be the same (*ib.*) ; as to when the polls for the two elections are taken together, see *post*, p. 183.

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Urban
district
councillors.

The lists and register of electors in any parish shall be framed in parts for wards of urban districts and parishes in such manner that they may be conveniently used as lists for polling at elections for any such wards (L.G.A. s. 44, sub. 3) ; they shall be made out in such parts as may be necessary for the purpose of the first elections under the L.G.A. (*ib.* s. 84, sub. 4) ; and if the county council, having under consideration any division into wards, or alteration of the boundaries of any parish, or union, or district which is to affect the first election, so direct, the lists of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish, union,

Lists and
registers.

CHAP. IX. or district, or for the same when divided or altered
 (L.G.A. s. 84, sub. 3 (a)).

POLLING
 PLACES. The returning officer shall determine the number and
 situation of the polling places, provided that no premises
 licensed for the sale of intoxicating liquor shall be used
 for a polling place (G.O. r. 15, par. 1 (a) ; R.O. r. 14 (a) ;
 U.O. r. 14 (a)). As to what are such premises, see *post*,
 p. 207.

Use of school
 and public
 room. The returning officer at an election of guardians or
 district councillors may use, free of charge, for the pur-
 pose of taking the poll at such election, any room in a
 school receiving a grant out of moneys provided by
 parliament, and any room the expense of maintaining
 which is payable out of any local rate, but he shall
 make good any damage done to such room, and defray
 any expense incurred by the person or body of persons,
 corporate or unincorporate, having control over the
 same, on account of its being used for the purpose of
 taking the poll as aforesaid (B.A. s. 6 ; L.G.A. s. 48,
 sub. 3 (a)).

Any room so used must probably be suitable for the
 purpose of taking the poll, and a "suitable" room is
 one that is fitting, proper, and competent for the use
 and purpose. The right to use any room in a school
 does not extend to any room in the dwelling house of
 the schoolmaster (see *Buckrose*, 4 O'M. & H. 113) ; but
 the right to use the room for the purpose of taking the
 poll seems to be paramount over the ordinary use and
 purpose of the room, and to justify any needful inter-
 ference with school hours, and with the hours during
 which any room maintained out of a local rate is used
 for the administration of justice or police (*cp.* L.G.A.
 s. 4, sub. 1).

Exemption
 from rates. The use of any room in an unoccupied house for the
 purpose of taking the poll shall not render any person
 liable to be rated or to pay any rate for such house
 (B.A. s. 6).

POLLING
 STATIONS. The returning officer shall provide such polling stations
 as may be necessary for effectually conducting the
 election (B.A. s. 8), and at every polling place he shall,
 subject to the provisions of the G.O., R.O. and U.O.,
 provide a sufficient number of polling stations for the
 accommodation of the electors entitled to vote at such
 polling place, and shall distribute the polling stations
 amongst those electors in such manner as he thinks

Number.

most convenient (B.A. r. 15). A separate room or booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth (*ib.* r. 17). But unless the county council otherwise direct, where the number of parochial electors in the parish or urban district, or (if the parish or district is divided into polling districts) in any polling district, is not more than five hundred, only one polling station shall be provided for the parish, urban district, or polling district; and so on for each additional five hundred parochial electors, or for any less number of electors over and above the last five hundred (G.O. r. 15, par. 1 (c); R.O. r. 14 (c); U.O. r. 14 (c)). The maximum number of polling stations that can be provided is thus dependent upon the number of parochial electors in the parish, urban district, or polling district, and is as follows:—

From	1 to	500 electors,	one polling station.
„	501 „	1,000 „	two polling stations.
„	1,001 „	1,500 „	three „ „
„	1,501 „	2,000 „	four „ „

and so on, adding one more polling station for each additional five hundred electors, or less than five hundred electors.

The polling stations for the election of guardians and of any urban district councillors, when the polls for the two elections are taken together, shall be the same (G.O. r. 15, par. 1 (b); U.O. r. 14 (b)); and the same polling stations shall be used for the election of rural district councillors and of any parish councillors to be elected at the same date in the parish (R.O. r. 14 (b); P.O. r. 22 (b)). As to when these elections are respectively to be taken together, see *post*, p. 183.

There are no requirements as to the architectural form of the polling stations. One convenient feature is to provide each station with two doors—one for the entrance and one for the exit of the electors—marking same respectively with large placards, “Entrance” and “Exit,” or “In” and “Out” and with index fingers,  , and, if possible, with a third door at the back for the officials. By this means, the electors enter and leave in one continuous stream, and the officials can enter or leave rapidly, and without coming into contact with the electors—a convenience that might be of vital importance in the case of riot, stoppage, or failure of the voting machinery, or in any other emergency requiring prompt

Architectural
form of
station.

CHAP. IX.

measures to be taken. The polling station should be on a level with the street, steps either up or down being very objectionable. The presiding officer's seat should face the entrance, his poll clerks should be seated on either side of him, and the candidates' polling agents next beyond the poll clerks. There should be a drop bar or barrier to separate the officers and the candidates' agents from the voters, and a sufficient number of seats for these officers and agents must be provided.

The returning officer shall furnish every polling station with such number of compartments in which the voters can mark their votes screened from observation, as may be necessary for effectually taking the poll at the election (G.O. r. 18 ; R.O. r. 17 ; U.O. r. 17). This is in lieu of the unapplied provision, B.A. r. 16, under which at least one compartment must be provided for every 150 electors entitled to vote at such polling station ; the number to be provided is therefore not prescribed, but is left to the judgment and discretion of the returning officer.

Any fittings and compartments provided by or belonging to any public authority, for any election (whether parliamentary, county council, municipal, school board, or other), shall, on request, and if not required for immediate use by the said authority, be lent to the returning officer, upon such conditions and either free of charge or, except in the prescribed cases, for such reasonable charge as may be prescribed (L.G.A. s. 48, sub. 6). "Prescribed" means prescribed by order of the Local Government Board (*ib.* s. 75, sub. 2), and no conditions or charge having been prescribed by the G.O., R.O., or U.O., application must, if needful, be made to the Board in each particular case.

The compartments should be opposite the presiding officer's seat ; and, in order to hide them more effectually from the observation of persons passing in and out of the station, a curtain or screen of sufficient height may be placed alongside the compartments. A width of thirty inches, and a height of seven feet is sufficient for each compartment. It is also very convenient in polling districts containing a large number of illiterate electors, to have a separate department with additional officials for taking the votes of such electors.

The proper course where the returning officer cannot obtain fittings and compartments on loan, free of charge, is for him to enter into a contract for the provision and

Compartments for marking the votes.

Use of compartments belonging to any public authority.

Position of compartments.

Contract for providing compartments, etc.

furnishing of polling stations. The following form is suggested :—

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Agreement made the day of 189 , between of Form.
(hereinafter called "the contractor") of the one part, and Y. Z.
of (hereinafter called "the returning officer") of the other part.

1. The contractor shall provide, set up, and maintain in complete compliance with the requirements of the Ballot Act, 1872, and of the Guardians (Outside London) Election Order, 1894,* and to the satisfaction in all respects of the returning officer, in each of the polling stations mentioned in the first column of the schedule hereto, such number of secret compartments as are specified in the second column of the said schedule, and shall provide at each station all tables, desks, barriers, and all such other furniture as is necessary and usual, or as shall be required by the returning officer, for the use of the presiding officer, poll clerks, candidates, polling agents and voters, together also with light and fire from o'clock a.m. to o'clock p.m. on the polling day and any adjourned polling day.

* These words
to be altered
according to
circumstances

2. The said compartment shall be put, placed, and set up ready for use in each of the said polling stations, without damage or injury to the respective rooms or buildings used as the said polling stations or to the furniture now or then therein, by o'clock .m. at the latest on the day [previous to the day] appointed for taking the poll, and shall be removed therefrom, without damage or injury as aforesaid, on the day succeeding the day on which the poll shall be closed.

[3. The contractor shall, on the day [before the day] appointed for taking the poll, post or cause to be posted on the outside of every polling station and inside every secret compartment of such polling station, all placards and posters which the returning officer shall instruct him to so post, and which shall be supplied to him by the returning officer, and shall keep the same so posted until after the close of the poll.]

4. Upon payment of the charges of the returning officer, the returning officer shall pay to the contractor such sum or sums as shall be allowed to the returning officer for the works herein required to be done and the materials herein required to be supplied. And the contractor shall accept such sum or sums in full payment for all work required to be done and materials to be supplied by him under this agreement.

5. The contractor shall be answerable for all damage done to any polling station or room used as a polling station in the erection or removal of the said compartments, and hereby indemnifies the returning officer therefrom, and also from all damages, costs, charges, and expenses which shall or may be incurred by the returning officer, owing to any neglect, omission, or failure on the part of the contractor, his agent or servants, in complying with this agreement.

In Witness, etc.

THE SCHEDULE ABOVE REFERRED TO.

Name of Polling Station.	Number of Compartments to be Erected.

CHAP. IX.

Directions for
guidance of
voter in
voting.

The directions for the guidance of voters in voting shall be printed in conspicuous characters, and placarded outside every polling station, and in every compartment of every polling station (B.A. sch. II., note at head of the directions). These directions shall be illustrated by examples of the ballot paper (*ib.* note at foot of the directions). It is doubtful whether the names of the actual candidates are intended to be inserted in the example of the ballot paper given in these directions; the general, and, it is submitted, preferable practice, is to give hypothetical names, such as those given in the form in B.A. sch. II. (*post*, p. 179). It is inexpedient to give a greater number of names than the total number of candidates; thus, where there are only six candidates, six names only should be given.

The name and address of the printer and publisher must appear on the face of the directions (M.E.C.I.P.A. s. 14).

Form.

The following is the form in B.A. sch. II., which form, or a form as nearly resembling the same as circumstances admit, shall be used (note at head of B.A. sch. II.) :—

Directions for the Guidance of the Voter in Voting.

The voter may vote for candidates as guardians [*or rural or urban district councillors*].

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus x.

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer and then, in the presence of the presiding officer, put the paper into the ballot box and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence give him another paper.

If the voter votes for more than candidates, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanor, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

Ballot boxes.

The returning officer shall provide such ballot boxes as may be necessary for effectually conducting the election (B.A. s. 8). Any ballot boxes provided by or

belonging to any public authority for any election shall, on request, and if not required for immediate use by the said authority, be lent to the returning officer, upon such conditions, and either free of charge, or for such reasonable charge as may be prescribed (L.G.A. s. 48, sub. 6 ; and see *ante*, p. 174).

In an election of guardians, or urban district council-
lors, if polls are taken together for the election of Separate
guardians and urban district councillors, separate ballot boxes.
boxes shall be used for the two elections respectively, but no vote for any guardian, or urban district councillor, shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for urban district councillors or guardians (G.O. r. 25, par. 2 ; U.O. r. 24, par. 2). As to where polls are to be taken together, see *post*, p. 183.

If an election of rural district councillors and of any parish councillors is held in the parish at the same date, one ballot box may, if the returning officer thinks fit, be used for the two elections ; but, if separate ballot boxes are used for the two elections respectively, no vote for any rural district councillor shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for parish councillors (R.O. r. 24, par. 2 ; and see P.O. r. 34, par. 2). As to when these elections are to be taken together, see *post*, p. 183.

If separate ballot boxes are used for the two elections, it is suggested that they should be of the same colours respectively as the ballot papers to be deposited in them (see *post*, p. 178).

The ballot box must have a lock and key (see B.A. r. 23) ; it shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom without the box being unlocked (*ib.*) ; and it must be capable of being sealed up at the close of the poll, so as to prevent the introduction of additional ballot papers (*ib.* s. 2) ;—this is usually done by a sliding lid so constructed as that it can be sealed. The ballot box should be placed in the centre of the table, and immediately opposite the presiding officer. It may be constructed of any material, size, or shape ; but must be of sufficient capacity conveniently to receive a number of ballot papers equal to the number of voters assigned to the particular station ; of sufficient strength to stand

Size and
construction.

CHAP. IX. the wear-and-tear of transit ; and each box should bear a distinctive number.

Cost. The cost of any ballot boxes provided by the returning officer must not exceed any limit contained in the scale fixed by the county council, or by the Local Government Board, as the case may be (see L.G.A. s. 48, sub. 7).

Ballot papers. The returning officer shall also furnish each presiding officer with such number of ballot papers as may be necessary for effectually taking the poll at the election (B.A. s. 8 ; G.O. r. 18 ; R.O. r. 17 ; U.O. r. 17). The number supplied must be equal to the total number of voters entitled to vote at that station, with a sufficient extra allowance to supply the place of spoilt ballot papers. These ballot papers shall show the names and descriptions of the candidates ; each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face (B.A. s. 2). Every ballot paper shall contain a list of the candidates, described as in their respective nomination papers, and arranged alphabetically in the order of their surnames (as to what is a surname, see *ante*, p. 110), and (if there are two or more candidates with the same surname) of their other names ; it shall be in the form in B.A. sch. II., or as near thereto as circumstances admit, and shall be capable of being folded up (B.A. r. 22). The surname of each candidate, and, if there are two or more candidates of the same surname, the other names of such candidates, shall be printed in large characters as shown in the form, and the names, places of abode, and descriptions, shall be printed in small characters (B.A. sch. II., directions as to printing ballot paper). The number on the back of the paper shall also be printed in small characters (*ib.*), and it should be printed in such a position—*e.g.* in a corner of the ballot paper—as that the number is capable of being doubled up to prevent its being seen (*Thornbury*, 2 Times L. R. 488 ; and see *post*, p. 278). The space allotted on the ballot paper for the marking of the voter's cross should afford him ample space in which to mark his cross, but waste edges or margins, sometimes resorted to by an uneducated voter for marking his cross, should be avoided. The ballot papers used at the election of guardians, or urban district councillors, or rural district councillors, shall be of a different colour from that of any ballot papers used in the election of any urban

district councillors, or guardians, or parish councillors, used when the polls for the two elections are taken together (G.O. r. 25, par. 3 ; U.O. r. 24, par. 3), or when the elections of rural district councillors and of parish councillors are held in the parish at the same date (R.O. r. 24, par. 3 ; P.O. r. 34, par. 3). As to when these polls are taken together, see *post*, p. 183.

The returning officer must also provide each polling station with a sufficient number of tendered ballot papers, which shall be of a colour differing from the other ballot papers (B.A. r. 27), but shall correspond therewith in all other respects. The colours so used should differ from either colour used for the ordinary ballot papers, and where two elections are held in the same parish or district at the same date, it will probably be found prudent and desirable to use a separate colour for each set of tendered ballot papers—thus using four colours in all.

Ballot papers may conveniently be made up into books, like cheque books, and usually are so made up.

The following is the form of ballot paper to be used at an election of rural district councillors :—

Form of Front of Ballot Paper.	
ELECTION OF RURAL DISTRICT COUNCILLORS.	
1	ADAMS (Walter Adams, of Green Farm, Farmer.)
2	HIGGINS (William Henry Higgins, of Mudford, Agricultural Labourer.)
3	MERTON (Hon. George Travis, commonly called Viscount Merton, of Swanworth, Wilts, gentleman.)
4	PRITCHARD (Jane Pritchard, of Rose Villa, married woman.)

Counterfoil
No.

NOTE :—

The counter-foil is to have a number to correspond with that on the back of the Ballot Paper.

Form of Back of Ballot Paper.

No.

Election of Rural District Councillors for Parish [or United
Parishes, or Ward of Parish].
1894.

Note.—The number on the ballot paper is to correspond with that on the counterfoil.

CHAP. IX.
Form.

The following is the form of ballot paper to be used at an election of guardians:—

Counterfoil
No.

NOTE:—

The counter-foil is to have a number to correspond with that on the back of the Ballot Paper.

Form of Front of Ballot Paper.

ELECTION OF GUARDIANS.

1	BROWN (John Brown of Water Lane, Agricultural Labourer.)	
2	GREEN (Robert Green, of Mudford, Shoemaker.)	
3	JONES (William David Jones, of Claygate Farm, Farmer.)	
4	MERTON (Hon. George Travis, commonly called Viscount Merton, of Swanworth, Wilts, gentleman.)	
5	ROBINSON (Henry Robinson, of High Street, Grocer.)	
6	SMITH (Mary Elizabeth Smith, of Lavender Cottage, married woman.)	

Form of Back of Ballot Paper.

No.

Election of Guardians for
of Parish].

Parish [*or* 2 United Parishes *or* Ward

1894.

Note.—The number on the ballot paper is to correspond with that on the counterfoil.

And the following is the form of ballot paper to be used at an election of urban district councillors :—

CHAP. IX.

Form.

Form of Front of Ballot Paper.

ELECTION OF URBAN DISTRICT COUNCILLORS.

Counterfoil
No.



NOTE :—

The counter-foil is to have a number to correspond with that on the back of the Ballot Paper.

1	CADE (John Cade, of 22, Wellclose Place, Accountant.)	
2	GIBSON (Henry Gibson, of 10, High Street, Oilman.)	
3	JOHNSON (Charles Johnson, of 7, Albion Street, gentleman.)	
4	ROBINSON (Jane Ellen Robinson, of 12, Green Street, Grocer.)	
5	THOMPSON (William Henry Thompson, of 14, Queen Street, Silversmith.)	
6	WILSON (Robert Wilson, of 22, Hanover Square, Chemist.)	

Form of Back of Ballot Paper.

No.

Election of Urban District Councillors for Urban District [or
Ward of Urban District].
1894.

Note.—The number on the ballot paper is to correspond with that on the counterfoil.

But forms as nearly resembling the above as circumstances will admit may be used, and when so used shall be sufficient in law (B.A., note at head of sch. II.).

The returning officer shall provide stamping instruments for stamping the official mark on the ballot papers (B.A. r. 20). Inasmuch as the official mark shall be marked on both sides of the ballot paper (*ib.* s. 2), and may be either stamped or perforated (*ib.* r. 24), an embossing or perforating machine is the most convenient. The official mark may be any word, letter, combination of letters, cipher, or design whatever, and the returning

Stamping
instrument
and official
mark.

CHAP. IX. officer shall keep it secret (B.A. r. 20) ; but there is no enactment requiring that an interval of not less than seven years shall intervene between the use of the same mark, as there is at parliamentary elections, municipal elections (M.C.A. s. 58, sub. 1), and county council elections (L.G.A. s. 75).

Materials for marking ballot papers. The returning officer shall also provide each polling station with materials for voters to mark the ballot papers (B.A. r. 20). The usual material, and that which is contemplated by the statute, is a pencil (see the directions for guidance of voters in voting, *ante*, p. 176) ; ink is very objectionable.

Light and firing. The returning officer must also provide each polling station with sufficient means of lighting, and, if he see fit, with firing.

Forms, accounts, etc. He must also provide each polling station with the following forms, accounts, stationery and materials :—

- | | |
|--|---|
| 1.—Register of parochial electors allotted to polling station. | 15.—Seal. |
| 2.—Perforator. | 16.—Ink. |
| 3.—Three pencils. | 17.—Sealing-wax. |
| 4.—Two penholders. | 18.—Foolscap envelopes. |
| 5.—Ballot papers. | 19.—Note paper and small envelopes. |
| 6.—Tendered ballot papers. | 20.—Foolscap paper. |
| 7.—Six quill pens. | 21.—Blotting paper. |
| 8.—Declarations of inability to read. | 22.—Cartridge paper. |
| 9.—List of votes marked by the presiding officer. | 23.—Pins. |
| 10.—List of tendered votes. | 24.—Pentateuch. |
| 11.—Ballot paper account. | 25.—Testament. |
| 12.—Questions, oaths, and affirmation. | 28.—Statement of number of votes marked by presiding officer. |
| 13.—Tape. | 29.—Cards of re-admission to polling station. |
| 14.—Box of wax-lights. | 30.—Stamping instrument. |

The register of voters to be supplied is limited by the B.A. to such part as contains the names of the voters allotted to vote at the station (see B.A. s. 8, and r. 20), but if police constables are likely to vote under 50 & 51 Vict. c. 9 (see *post*, p. 240), a full copy of the register, or of that part containing the names of the constables likely to vote at such station, must be supplied, unless the constables can be posted at the polling stations at which they would vote in ordinary course. The list of tendered votes list may conveniently be printed on paper of the same colour as the tendered ballot papers. The declarations of inability to read must be sent in sufficient number for each particular polling station, and

that number will be the estimated number of illiterate voters at that station. CHAP. IX.

C.—NOTICE OF POLL.

The B.A. and the M.E.C.I.P.A., as adapted and altered by the G.O., R.O., and U.O., are applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3. The provisions of the B.A. have in many cases been materially altered by the above-named orders from those which appear in the B.A. itself, and are consequently cited, not from that Act, but from the schedules to G.O. r. 25, R.O. r. 24, and U.O. r. 24.

It is enacted that rules framed under the L.G.A. by the Local Government Board in relation to elections shall provide for the polls at elections held at the same date and in the same area being taken together, except where this is impracticable (L.G.A. s. 48, sub. 2 (v)). Accordingly, it is prescribed, with respect to elections of guardians, that if any parish is co-extensive with an urban district other than a borough, or with any ward or wards of any such urban district, or is wholly comprised in any such district which is not divided into wards, or in any one ward of such a district which is divided into wards, the poll for the election of guardians for the parish and any poll for the election of urban district councillors shall be taken together (G.O. r. 12, par. 1). If the county council shall be of opinion in any other case that the polls for the election of guardians and for the election of urban district councillors can conveniently be taken together, they may give directions accordingly to the returning officers for the two elections, and the polls for such elections shall thereupon be taken together (*ib.* par. 2).

It is also prescribed, with respect to elections of urban district councillors, that if the urban district or any ward or wards of the district is or are co-extensive with a parish or united parishes or with any ward or wards of a parish for the election of guardians, or if the district is not divided into wards such district, or if it is divided into wards any one ward of the district, includes the whole of such parish, united parish, or ward of a parish, the poll for the election of urban district councillors for the district, and any poll for the election of guardians for the parish, united parishes, or ward shall be taken

WHEN POLLS
TO BE TAKEN
TOGETHER.

Guardians.

Urban
district
councillors.

CHAP. IX.

together (U.O. r. 12, par. 1). If the county council shall be of opinion, in any other case, that the polls for the election of urban district councillors and for the election of guardians can conveniently be taken together, they may give directions accordingly to the returning officers for the two elections, and the polls for such elections shall thereupon be taken together (*ib.* par. 2).

Day and hours of poll to be the same for (1) guardians and urban district councillors, and (2) rural district and parish councillors.

It is further prescribed that in any urban district other than a borough, the day of election of guardians and of urban district councillors shall be the same (G.O. r. 2, par. 2 ; U.O. r. 2, par. 2) ; and that the day of election of rural district councillors in the parish and the day of the poll for the election of any parish councillors to be elected at the same date in the parish shall be the same (R.O. r. 2, par. 2 ; P.O. r. 20, par. 3). Again, it is prescribed that in any urban district, other than a borough, the hours during which any poll shall be open for the election of guardians and urban district councillors shall be the same (G.O. r. 11, par. 2 ; U.O. r. 11, par. 2 ; and see *post*, p. 185) ; and that the hours during which any poll shall be open for the election of rural district councillors and of any parish councillors for the parish shall be the same (R.O. r. 12, par. 2 ; P.O. r. 20, par. 2 ; and see *post*, p. 185).

NOTICE OF POLL.

If a poll has to be taken, the returning officer shall, five clear days at least before the day fixed for the same, give public notice thereof. The notice shall specify—

Its contents.

- (a.) the day and hours fixed for the poll ;
- (b.) the number of guardians, or district councillors, to be elected for the parish, ward, or district ;
- (c.) the names, place of abode, and description of each candidate for the parish, or district, whom he has decided to be nominated by a valid nomination paper, and who has not withdrawn his candidature ;
- (d.) the names of the proposer and seconder who signed the nomination paper of each candidate ;
- (e.) a description of the polling districts, if any ; and
- (f.) the situation and allotment of the polling places, and the description of the persons entitled to vote thereat, and at the several polling stations (G.O. r. 16, par. 1 ; r. 31, par. 1 ; r. 32, par. 1 ; R.O. r. 15, par. 1 ; r. 30, par. 1 ; r. 31, par. 1 ; U.O. r. 15, par. 1 ; r. 29, par. 1).

The expression "five clear days at least" means that at least five days shall intervene between the day of giving the notice and the day fixed for the poll, and that both of these days shall be excluded in computing the five days (see *Re Railway Sleepers Supply Co.*, 29 Ch. D. 204; *Chambers v. Smith*, 12 M. & W. 2). As to what constitutes "public notice," see *ante*, p. 100.

With regard to the contents of the notice—

(a.) The poll, if any, shall in the year 1894 be held on the day of election as fixed by or under G.O. r. 2; R.O. r. 2, U.O. r. 2 (G.O. r. 11, par. 1; R.O. r. 12, par. 1; U.O. r. 11, par. 1) as to which, see *ante*, p. 95.

The hours during which the poll shall be open shall be such as shall be fixed by the county council by any general or special order, so, however, that the poll shall always be open between the hours of six and eight in the evening (G.O. r. 11, par. 1; R.O. r. 12, par. 1; U.O. r. 11, par. 1). The county council must therefore fix these hours in sufficient time to enable the notice of poll to be duly given. In any urban district, other than a borough, the hours during which any poll shall be open for the election of guardians and urban district councillors shall be the same (G.O. r. 11, par. 2; U.O. r. 11, par. 2); and the hours during which any poll shall be open for the election of rural district councillors and of any parish councillors for the parish shall be the same (R.O. r. 12, par. 2; P.O. r. 20, par. 3).

(b.) The number of guardians or district councillors to be elected will depend upon whether the election is held for an undivided parish or district, or for one divided into wards.

(c.) The names, etc., of each candidate will be taken from the valid nomination paper of each candidate who has not withdrawn his candidature. Where a candidate has been nominated by several nomination papers, his name, etc., must be taken from the first of his nomination papers which the returning officer has decided to be valid, and which has become *the nomination* of that candidate (see *ante*, p. 118).

(d.) The names of each candidate's proposer and seconder will be taken from *the nomination* of each candidate.

(e.) The description of the polling districts should, as far as possible, set out the name and boundaries of each polling district into which the parish or district has been

Day of poll.

Hours of poll.

Number to be elected.

Names, etc., of each candidate.

Names of proposer and seconder.

Description of polling districts.

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Situation,
etc., of
polling places,
stations, etc.

divided, and be in accordance with the lists of parochial electors made out therefor (see *ante*, p. 170).

(*f.*) The situation, etc., of the polling places, the description of the persons entitled to vote thereat and at the polling stations, will follow the determination of the returning officer on the subject (see *ante*, p. 172), and it is sometimes convenient to give this information in a tabular form, thus :—

Name of polling place.	Situation and allotment.	Description of the persons entitled to vote thereat.	Polling station at which to vote.

Form in
election of
guardians.

The notice of poll in an election of guardians shall be in the form No. 4 in G.O. sch. I., or in a form to the like effect (G.O. r. 16, par. 2); but if polls are to be taken together in the parish as to election of both guardians and urban district councillors, the returning officer may, if he thinks fit, give one notice only for both polls, and such notice shall be in the form No. 5 in G.O. sch. I., or in a form to the like effect (*ib.* r. 16, par. 3; U.O. r. 15, par. 3). The name and address of the printer and publisher must appear on the face of the notice (M.E.C.I.P.A. s. 14). No misnomer or inaccurate description of any person or place named in the notice shall hinder the full operation of such notice with respect to that person or place, provided the description of that person or place is such as to be commonly understood (G.O. r. 34; R.O. r. 34; U.O. r. 32); as to what is "commonly understood," see *ante*, p. 100.

The following is form No. 4 :—

Union.

Election of Guardians

for the above Union in the year 1894.

Parish of [or
Parishes of].

Ward of the Parish of , or United

NOTICE IS HEREBY GIVEN—

1. That a Poll for the election of Guardians for the above-named Parish [or Ward or United Parishes] will be held on the day of December, 1894, between the hours of and .

2. That the number of Guardians to be elected for the Parish [*or* Ward *or* United Parishes] is . CHAP. IX.
3. That the names in alphabetical order, places of abode, and descriptions of the Candidates for election, and the names of their respective Proposers and Seconders are as follows :—

Names of Candidate (Surname first).*	Place of Abode.	Description.	Names of Proposer (Surname first).	Names of Seconder (Surname first).

* Insert particulars as to each Candidate for the Parish or Ward or United Parishes whose nomination is valid, and who has not withdrawn his candidature.

- 4†—(1.) That each elector must vote in the Polling District in which the property in respect of which he votes is situate, and if it is situate in more than one Polling District he may vote in any one (but in one only) of such Polling Districts.
- (2.) The Polling Districts are as follows :—
- 5.‡ The situation and allotment of the Polling Places and the description of the persons entitled to vote thereat and at the several Polling Stations are as follows :—
6. The poll will be taken by ballot, and the colour of the ordinary ballot paper used in the election will be (*insert colour*).

† If the Parish or Ward or United Parishes are not divided into Polling Districts for the purposes of the Election, paragraph 4 should be omitted.

‡ If only one Polling Place or Station, adapt form accordingly.

Dated this day of December, 1894.

Returning Officer *or*
Deputy Returning Officer.

Office for purpose of election.

The following is form No. 5 :—

Election of Urban District Councillors and Guardians for the
Urban District of [*or* for the Ward of the Urban
District of], and for the Parish of [*or* for the
Ward of the Parish of , *or* for the United Parishes of]
in the year 1894.

NOTICE IS HEREBY GIVEN—

1. That polls for the election of Urban District Councillors and of Guardians for the above-named District [*or* Ward] and Parish [*or* Ward *or* United Parishes] will be held on the day of December, 1894, between the hours of and .
2. That the number of Urban District Councillors to be elected for the District [*or* Ward] is .
3. That the number of Guardians to be elected for the Parish [*or* Ward *or* United Parishes] is .

CHAP. IX.

4. That the names in alphabetical order, places of abode, and descriptions of the Candidates for election, and the names of their respective Proposers and Seconders are as follows :—

AS URBAN DISTRICT COUNCILLORS.

Names of Candidate (Surname first).	Place of Abode.	Description.	Names of Proposer (Surname first).	Names of Secunder (Surname first).

AS GUARDIANS.

Names of Candidate (Surname first).	Place of Abode.	Description.	Names of Proposer (Surname first).	Names of Secunder (Surname first).

* If the District, Parish, or Ward, or United Parishes are not divided into Polling Districts for the purposes of the Election, paragraph 5 should be omitted.

† If only on Polling Place or Station, adapt form accordingly.

- *5.—(1.) That each elector must vote in the Polling District in which the property in respect of which he votes is situate, and if it is situate in more than one Polling District he may vote in any one (but in one only) of such Polling Districts.
- (2.) The Polling Districts are as follows :—
- †6. The situation and allotment of the Polling Places and the description of the persons entitled to vote thereat and at the several Polling Stations are as follows :—
7. The poll will be taken by ballot, and the colour of the ordinary ballot paper used in the election of Urban District Councillors will be [*insert colour*], and in the election of Guardians will be [*insert colour*].

Dated this day of December, 1894.

Returning Officer
for the election of Urban District Councillors, and
Deputy Returning Officer for the election of Guardians.

Office for purpose of election.

The notice of poll in an election of urban district CHAP. IX.
councillors shall be in the form No. 4 in U.O. sch. I., or Form in
in a form to the like effect (U.O. r. 15, par. 2); but if election of
polls are to be taken together in the district as to the urban district
election of both urban district councillors and guardians, councillors.
the returning officer may, if he thinks fit, give one notice
only for both polls, and such notice shall be in the form
No. 5 in U.O. sch. I., or in a form to the like effect
(*ib.* par. 3; G.O. r. 16, par. 3). The same provisions as
to the name, etc., of the printer and publisher, and as to
misnomer and inaccurate description, apply as in the
case of guardians (see *ante*, p. 186).

The following is the above-mentioned form No. 4 :—

Urban District of .
Election of Urban District Councillors for the above
District [*or* for the Ward of the above District].

NOTICE IS HEREBY GIVEN—

1. That a Poll for the election of Urban District Councillors for the
above-named District [*or* Ward] will be held on the day of
December, 1894, between the hours of and .
2. That the number of Urban District Councillors to be elected for the
District [*or* Ward] is
3. That the names in alphabetical order, places of abode, and descriptions
of the Candidates for election, and the names of their respective
Proposers and Seconders are as follows :—

*Insert particulars as to each Candidate for the District or Ward whose nomination is valid, and who has not withdrawn his candidature.

† If the District or Ward is not divided into Polling Districts for the purposes of the election, paragraph 4 should be omitted.

‡ If only one Polling Place or Station, adapt form accordingly.

Names of Candidate (Surname first).*	Place of Abode.	Description.	Names of Proposer (Surname first).	Names of Secunder (Surname first).

- 4.†—(1.) That each elector must vote in the Polling District in which the property in respect of which he votes is situate, and if it is situate in more than one Polling District he may vote in any one (but in one only) of such Polling Districts.

(2.) The Polling Districts are as follows :—

- 5.‡ The situation and allotment of the Polling Places and the description of the persons entitled to vote thereat and at the several Polling Stations are as follows :—

CHAP. IX.

6. The poll will be taken by ballot, and the colour of the ordinary ballot paper used in the election will be (*insert colour*).

Dated this _____ day of December, 1894.

Returning Officer.

Office for the purpose of election.

Form No. 5 in U.O. sch. I. is the same as form No. 5 in G.O. sch. I., which see *ante*, p. 187.

Form in
election of
rural district
councillors.

The notice of poll in an election of rural district councillors shall be in the form No. 4 in R.O. sch. I., or in a form to the like effect (R.O. r. 15, par. 2); but if polls are to be taken in the parish as to the election of both rural district councillors and parish councillors, the returning officer may, if he thinks fit, give one notice only for both polls, and such notice shall be in the form No. 5 in R.O. sch. I., or in a form to the like effect (*ib.* par. 3; P.O. r. 25, par. 3). The same provisions as to the name, etc., of the printer and publisher, and as to misnomer and inaccurate description, apply as in the case of guardians (see *ante*, p. 186).

The following is the above-mentioned form No. 4:—

Rural District of _____
Election of Rural District Councillors _____ for the above District in
the year 1894.
Parish of [or _____ Ward of the Parish of _____, or United
Parishes of _____].

NOTICE IS HEREBY GIVEN—

1. That a Poll for the election of Rural District Councillors for the above-named Parish [or Ward or United Parishes] will be held on the _____ day of December, 1894, between the hours of _____ and _____.
2. That the number of Rural District Councillors to be elected for the Parish [or Ward or United Parishes] is _____
3. That the names in alphabetical order, places of abode, and descriptions of the Candidates for election, and the names of their respective Proposers and Seconders are as follows:—

* Insert particulars as to each Candidate for the Parish or Ward or United Parishes whose nomination is valid, and who has not withdrawn his candidature.

Names of Candidate (Surname first).*	Place of Abode.	Description.	Names of Proposer (Surname first).	Names of Seconder (Surname first).

- 4.*—(1.) That each elector must vote in the Polling District in which the property in respect of which he votes is situate, and if it is situate in more than one Polling District he may vote in any one (but in one only) of such Polling Districts.

(2.) The Polling Districts are as follows :—

- 5.† The situation and allotment of the Polling Places and the description of the persons entitled to vote thereat and at the several Polling Stations are as follows :—

6. The poll will be taken by ballot, and the colour of the ordinary ballot paper used in the election will be (*insert colour*).

Dated this day of December, 1894.

Returning Officer.

Office for purpose of election.

CHAP. IX.

* If the Parish, or Ward, or United Parishes are not divided into Polling Districts for the purposes of the Election, paragraph 4 should be omitted.

† If only one Polling Place or Station, adapt form accordingly.

The following is the above-mentioned form No. 5 :—

Election of Parish and Rural District Councillors for the Parish
of [or for the Ward of the Parish of] in the year
1894.

NOTICE IS HEREBY GIVEN—

1. That polls for the election of Parish and Rural District Councillors for the above-named Parish [or Ward] will be held on the day of December, 1894, between the hours of and .
2. That the number of Parish Councillors to be elected for the Parish [or Ward] is .
3. That the number of Rural District Councillors to be elected for the Parish [or Ward] is .
4. That the names in alphabetical order, places of abode, and descriptions of the Candidates for election, and the names of their respective Proposers and Seconders are as follows :—

AS PARISH COUNCILLORS.

Names of Candidate (Surname first).*	Place of Abode.	Description.	Names of Proposer (Surname first).	Names of Secunder (Surname first).

* Insert particulars as to each Candidate whose name was put to the Parish Meeting, and who has not withdrawn his candidature.

CHAP. IX.

AS RURAL DISTRICT COUNCILLOR[S].

Names of Candidate (Surname first).	Place of Abode.	Description.	Names of Proposer (Surname first).	Names of Seconder (Surname first).

* If the Parish or Ward is not divided into Polling Districts for the purposes of the election, paragraph 5 should be omitted.

† If only one Polling Place or Station, adapt form accordingly.

5.*—(1.) That each elector must vote in the Polling District in which the property in respect of which he votes is situate, and if it is situate in more than one Polling District he may vote in any one (but in one only) of such Polling Districts.

(2.) The Polling Districts are as follows :—

6.† The situation and allotment of the Polling Places and the description of the persons entitled to vote thereat and at the several Polling Stations are as follows :—

7. The poll will be taken by ballot, and the colour of the ordinary ballot paper used in the election of Parish Councillors will be [*insert colour*], and in the election of Rural District Councillors will be [*insert colour*].

Dated this day of December, 1894.

Returning Officer.
[*State Office for purpose of election.*]

CHAPTER X.

CHAP. X.

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A.—CLERKS, MESSENGERS, AND AGENTS.

The B.A. and the M.E.C.I.P.A., as adapted and altered by the G.O., R.O., and U.O., are applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3. The provisions of the B.A. have in many cases been materially altered by the above-named orders from those which appear in the B.A. itself, and are

consequently cited, not from that Act, but from the schedules to G.O. rr. 25, 27, R.O. rr. 24, 26, and U.O. rr. 24, 26.

CHAP. X.
—

There is no election agent at an election of guardians or district councillors as there is at a parliamentary election, and whatever, therefore, would be done by an election agent at a parliamentary election, must, at an election of guardians or district councillors, be undertaken, if at all, by the candidate or some unpaid friend. There is no limit on the election expenses (M.E.C.I.P.A. s. 37 ; L.G.A. s. 48, sub. 3 (b)), as there is at a parliamentary and at a municipal election, and at an election of county councillors. And there is no limit of time within which claims for election expenses must be sent in or paid ; nor has any return or declaration of election expenses to be filed (*ib.*).

NO ELECTION
AGENT.
—

No limit on
expenses.

No return or
declaration.

VOLUNTEERS.
—

The candidate may, of course, avail himself of the assistance of as many unpaid volunteers as he pleases and can obtain ; but the only assistants he can engage or employ for payment for the purpose of promoting or procuring his election are the clerks, messengers and agents hereinafter mentioned.

By the M.E.C.I.P.A., as adapted and applied to the election of guardians and district councillors, it is enacted that no person shall, for the purpose of promoting or procuring the election of a candidate at an election of guardians or district councillors, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except as follows (that is to say) :—

CLERKS AND
MESSENGERS.
—

Statutory
enactment.

(a.) A number of persons may be employed, not exceeding two for a parish, or united parishes, urban district, or ward, and if the number of electors in such parish, united parishes, district, or ward exceeds 2000, one additional person may be employed for every thousand electors and incomplete part of a thousand electors over and above the said 2000, and such persons may be employed as clerks and messengers, or in either capacity ; and

(b.) If there are only two candidates, each of them may appoint a polling agent for each polling station. If there are more than two candidates, any number of them, being not less than one-third of the whole number of candidates, may

appoint one polling agent for each polling station.

Provided that this section shall not apply to any engagement or employment for carrying into effect a contract *bonâ fide* made with any person in the ordinary course of business (M.E.C.I.P.A. s. 13, sub. 1 ; G.O. r. 27, par. 4 ; R.O. r. 26, par. 4 ; U.O. r. 26, par. 4). This proviso apparently protects any legitimate contract for printing, etc., or other work done in the ordinary course of business, but does not enlarge the power of obtaining additional clerical or messenger assistance or work.

It is also enacted that, subject to such exception as may be allowed in pursuance of this Act (*i.e.* subject to such relief as may be given under s. 20, see *post*, p. 330), if any person is engaged or employed in contravention of the last quoted sub-section, either before, during, or after an election, the person engaging or employing him shall be guilty of illegal employment, and the person so engaged or employed shall also be guilty of illegal employment, if he knew that he was engaged or employed in contravention of this Act (M.E.C.I.P.A. s. 13, sub. 2). And if the illegal employment be by the candidate or with his knowledge and consent, his election is avoided (*ib.* s. 17, sub. 2 ; s. 8, sub. 2).

Number.

For the purpose of calculating the number of clerks and messengers that may be employed, the number of electors shall be taken according to the enumeration of the electors in the register of parochial electors (M.E.C.I.P.A. s. 34 ; G.O. r. 27, par. 7 ; U.O. r. 26, par. 6), and consequently no deductions need be made for out-voters, deaths, or the like.

The number of clerks and messengers that may be engaged or employed for payment or promise of payment is thus dependent on the number of electors, and is as follows :—

1 to 2000 electors, two clerks and messengers.			
2001 to 3000	„	three	„
3001 to 4000	„	four	„

and so on, adding one more clerk or messenger for each additional one thousand or incomplete part of one thousand electors.

The candidate may also, it seems, accept the services of clerks and messengers lent by their employers, and whose wages or salaries are paid by such employers (see

Buckrose, 4 O'M. & H. 116); and it has been held that the employment by a registration agent of clerks to assist him in the preparation of canvass books, polling district books, wall sheets of voters' names, and directed envelopes, all of which the registration agent had contracted to supply to the candidate's agent, is not an illegal employment, or an offence against the Act (*Ipswich*, 54 L. T. 625).

CHAP. X.

Any person, whether an elector or not, may be appointed a clerk or messenger (M.E.C.I.P.A. s. 13, sub. 3), provided he be not the returning officer, any officer appointed by the returning officer, nor any partner or clerk of any such officer (B.A. s. 11). Qualification.

Clerks and messengers, whether paid or unpaid, must be appointed by the candidate, or by some agent of his thereunto lawfully authorized. The appointment need not be in writing, and should determine either at pleasure, or with the close of the poll, or counting of the votes, according to the nature of the services the clerk or messenger is expected to render. Appointment.

If employed or authorized to attend at a polling station, or at the counting of the votes, clerks and messengers, whether paid or unpaid, must at some time before the opening of the poll, make the statutory declaration of secrecy (B.A. r. 54), and if so employed are bound to maintain and aid in maintaining the secrecy of the voting (B.A. s. 4). The form of declaration is given in B.A. sch. II., and in an election of guardians is as follows:— Declaration of secrecy.

I solemnly promise and declare, that I will not at this election of guardians for the parish of [or united parishes of or ward of the parish of] do anything forbidden by section four of the Ballot Act, 1872, which has been read to me.

In an election of rural district councillors the declaration is as follows:—

I solemnly promise and declare, that I will not at this election of rural district councillors for the parish of [or united parishes of , or ward of the parish of], do anything forbidden by section four of the Ballot Act, 1872, which has been read to me.

In an election of urban district councillors the declaration is as follows:—

I solemnly promise and declare, that I will not at this election of urban district councillors for the urban district of [or ward of the urban district of], do anything forbidden by section four of the Ballot Act, 1872, which has been read to me.

CHAP. N.
—

This declaration is invariably made in writing (as to what "writing" includes, see *ante*, p. 91), and subscribed by the declarant. The declaration may be made in the presence of, and be taken and received by, the returning officer or any justice of the peace (B.A. s. 10 ; r. 54). Section 4 of the B.A. referred to in the declaration must be read to the declarant by the returning officer or justice of the peace taking the declaration (B.A. sch. II., note to the form). This section (B.A. s. 4) enacts that a polling agent in attendance at a polling station shall—

(a.) Maintain and aid in maintaining the secrecy of the voting in such polling station.

And that he shall not—

(b.) Communicate, except for some purpose authorized by law, *before the poll is closed*, to any person, any information as to the name or number on the register of parochial electors of any elector who has or has not applied for a ballot paper or voted at that polling station, or as to the official mark.

(c.) Interfere with, or attempt to interfere with, a voter when marking his vote.

(d.) Attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted.

(e.) Communicate *at any time* to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station.

(f.) Directly or indirectly induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote (B.A. s. 4).

This enactment is plainly pointed not only to secrecy as to the way in which an elector has voted (secrecy as to that has to be maintained for ever), but it requires secrecy until the poll is closed as to the names not only of those who have voted, but of those who have not offered to vote (*Clementson v. Mason*, L. R. 10 C. P. 209, 213). But it is not an offence merely to obtain information as to the name, number, etc., of any voter who

has or has not applied for a ballot paper or voted, so long as such information is not communicated, before the poll has closed, to any person for any purpose not authorized by law (*Stannanought v. Hazeldine*, 4 C. P. D. 191, 196). Every person who acts in contravention of this enactment shall be liable, on summary conviction, to imprisonment for any term not exceeding six months with or without hard labour (B.A. s. 4; and as to the prosecution for this offence, see Election Agent, p. 475).

Duties.

The duties of the paid clerks and messengers apparently need not extend to the distributing of addresses and notices; the occasional employment and payment of additional persons for these special purposes is, it would seem, legal (M.E.C.I.P.A. s. 13, sub. 1; and see *Stepney*, 4 O'M. & H. 52).

Detectives, if engaged or employed primarily as clerks or messengers, may, it seems, be engaged or employed for payment, but it should be clearly understood that their detective duties are not the chief part of their business, but are subordinate to the latter. It is also clear that, if engaged or employed for payment, they must not exceed in number the maximum number of clerks and messengers allowed to be so engaged or employed. As to detective committees, see *post*, p. 205.

A paid clerk or messenger, if an elector, cannot vote (M.E.C.I.P.A. s. 13, sub. 3). Cannot vote, if paid.

The polling agent is an officer first constituted by the Registration Act, 1843, and whose principal function is to detect personation in the polling station (see 6 & 7 Vict. c. 18, s. 85). Personation is the application for a ballot paper in the name of some other person, or the application in the applicant's own name, if the applicant has already voted at the same election (M.E.C.I.P.A. s. 2, sub. 1). The aiding, abetting, counselling, or procuring the commission of personation is also personation (*ib.*). The offence must be knowingly and wilfully committed, and with a corrupt mind and intention; an innocent or *bonâ fide*, though erroneous, application for a ballot paper is not personation (see Election Agent, p. 434). POLLING AGENTS. —

Origin and status.

Any competent person, whether an elector or not, may be appointed as polling agent (M.E.C.I.P.A. s. 13, sub. 3), provided he be not the returning officer, any Qualification.

CHAP. X.

officer appointed by the returning officer, nor any partner or clerk of any such officer (B.A. s. 11). As the duties of the polling agent demand tact, judgment, and discretion, it is obvious that it is only persons endowed with these qualities that can be deemed competent to perform these duties, and considerable care should therefore be taken in the selection of persons to be appointed polling agents. A familiarity with the appearance of the voters in the polling district is very desirable.

Appointment
how and when
made.

The appointment must be in writing, and must be delivered at the office of the returning officer not less than two clear days before the day of the poll (G.O. r. 19; R.O. r. 18; U.O. r. 18); as to how clear days are calculated (see *ante*, p. 185). The polling agent may, it is submitted, be appointed to attend "at each or any" of the polling stations (see 6 & 7 Vict. c. 18, s. 85); but if a polling agent be appointed to any particular station or stations, he can attend only at the station or stations to which he has been so appointed (see *ib.*). If the appointment be not delivered as above prescribed, the returning officer may refuse to admit the polling agent to the polling station (see *ib.*). An agreement between candidates not to employ polling agents will not be enforced by injunction (*Ainsworth v. Lord Muncaster*, 2 Times L. R. 108).

Form.

The following is a form of appointment:—

Union of.

Parish of [or Ward of or United Parishes of

Election of Guardians and District Councillors in the year 1894.

We, *A. B.*, of , *C. D.*, of , and *E. F.*, of , all candidates at the above election, and being not less than one-third of the whole number of candidates at the said election, do hereby appoint *R. S.*, of , to be our polling agent.

Dated this day of December, 1894.

(Signed)

A. B.
C. D.
E. F.

To the Returning Officer for the above election.

Declaration of
secrecy.

The polling agent must, at some time before the opening of the poll, make the declaration of secrecy in the same manner as the clerk or messenger, and is under the same obligation to maintain, and aid in maintaining, the secrecy of the voting (see *ante*, p. 197).

Number.

If there are only two candidates, each of them may

appoint a polling agent for each polling station (G.O. r. 19 ; R.O. r. 18 ; U.O. r. 18). If there are more than two candidates, any number of them, being not less than one-third of the whole number of candidates, may appoint one polling agent for each polling station, who may be paid or unpaid (*ib.*). With these exceptions, no polling agent, whether paid or unpaid, shall be appointed for the purposes of the election (*ib.*). If there are more than two candidates, each third of the whole number of candidates may thus appoint one polling agent, but the total number of polling agents that can be appointed by all the candidates, whatever their number, cannot exceed three for each polling station.

The polling agent is entitled to attend during the time of polling at the polling station or stations to which he is appointed (see 6 & 7 Vict. c. 18, s. 85). The duties of the polling agent, stated generally, are—

- (a.) To prevent any person, other than the real person on the register, from voting, and to prevent any person from voting a second time.
- (b.) To keep, upon his copy of the register, a correct record of the voters who have polled.
- (c.) To take an exact note of any irregularity, or of anything unusual occurring in the station.
- (d.) To be present at the marking by the presiding officer of the votes of blind, physically incapable, Jewish, and illiterate voters.

It is the duty of the returning and presiding officers to see that the polling agent does not take advantage of his position to violate the law (*Bolton*, 2 O'M. & H. 144).

A paid polling agent cannot vote (M.E.C.I.P.A. s. 13, sub. 3); if nevertheless he does vote, he is guilty of an illegal practice (*ib.* s. 6, sub. 1), but in a proper case the candidate may obtain relief against the illegal practice (*ib.* s. 20; and see *post*, p. 330). An unpaid polling agent is not disqualified from voting, and is guilty of no offence if he does vote; if he desires to vote, he should give his vote as soon after the opening of the poll as possible.

The remuneration of a paid polling agent should be a reasonable and proper fee. Refreshment may also be given to a paid polling agent, but must be treated as part of the remuneration. Refreshment is equivalent to payment, and therefore should not be given to a polling

Remuneration.
tion.

CHAP. X. agent who acts gratuitously (see *Barrow-in-Furness*,
 — 4 O.M. & H. 78).

Liabilities. The polling agent is bound to exercise reasonable care and skill in the performance of his functions, but is under no special liabilities.

Death or incapacity. If a polling agent dies or becomes incapable of acting during the time of the election, another agent may be appointed in his place, and notice shall forthwith be given to the returning officer, in writing, of the name and address of any agent so appointed (B.A. r. 53). This form of appointment and notice may readily be framed from the form given, *ante*, p. 200.

For further information as to the powers and duties of the polling agent, see the author's "Manual for the Polling Agent at all Elections held under the Ballot Act, 1872."

COUNTING The counting agent is a person appointed by the can-
 AGENTS. didate to attend on his behalf at the counting of the votes (B.A. r. 31).

Qualification. Any competent person, whether an elector or not, may be appointed counting agent, provided he be not the returning officer, any officer appointed by the returning officer, nor any partner or clerk of any such officer (B.A. s. 11).

Appointment. The counting agent, if employed for payment, should be chosen from among the paid clerks and messengers, as the M.E.C.I.P.A. does not recognise the paid counting agent as a distinct paid official, or in any way mention or allude to him (see s. 13, *post*, p. 204).

How and when made. The appointment must be made one clear day at the least before the opening of the poll (see B.A. r. 52), and it should of course be in writing, and may be combined with the notice to the returning officer mentioned *passim*. A "clear" day is a day reckoned exclusively both of the first and last days (*Liffin v. Pitcher*, 1 Dowl. N. S. 767); thus one clear day before Wednesday is Monday.

Notice to returning officer. One clear day at the least before the opening of the poll, the name and address of every agent, whether paid or unpaid, of a candidate appointed to attend at the counting of the votes shall be transmitted to the returning officer, and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid (B.A. r. 52). This notice may be com-

bined with the appointment (*supra*) and may be in the following form :—

CHAP. X.

Form.

Union of.

Parish of [or Ward of or United Parishes of]

Election of Guardians and District Councillors in the year 1894.

Take notice that I, *A. B.*, of , a candidate at the above election, do hereby appoint *S. T.*, of , to attend as my agent at the counting of the votes.

Dated this day of December, 1894.

(Signed) *A. B.*

To the Returning Officer at the above election.

NOTE.—The agent will only be admitted to the counting hall on delivery up of this appointment, with the annexed declaration of secrecy duly signed.

[The declaration of secrecy should be printed at the foot or on the fly leaf of the above form.]

Every counting agent must, before the opening of the poll, make the declaration of secrecy, in the same manner as the clerk or messenger, and is under the same obligation to maintain and aid in maintaining the secrecy of the voting (see *ante*, p. 197).

Declaration of
secrecy.

Each candidate may appoint *an* agent to attend the counting of the votes (B.A. r. 31), and therefore, whether paid or unpaid, each candidate can appoint only one such agent. If the candidate's counting agent be paid, he must be selected from amongst the paid clerks and messengers allowed to be appointed (see *Remuneration*, *post*, p. 204). The returning officer probably has a discretion to admit more than one counting agent for each candidate, but he is not bound to admit more than one, and if he does admit more than one, he should impose such conditions as he deems proper to prevent confusion in the place where the votes are counted, and delay in the counting of the votes.

Number.

The duties of the counting agent are to watch the counting of the votes, to see that the returning officer and his staff properly perform their duties, to object to every objectionable ballot paper given for an opposing candidate, and to defend every ballot paper given for his own candidate that may be objected to (see *post*, p. 280 *et seq.*). He is also bound to maintain and to aid in maintaining the secrecy of the voting, and shall not attempt to ascertain, at the counting of the votes, the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular

Duties.

CHAP. X. ballot paper, under penalty of imprisonment (B.A. s. 4 ;
 — and see *ante*, p. 198).

Cannot vote, The paid counting agent, like the paid polling agent,
 if paid. cannot vote (M.E.C.I.P.A. s. 13, sub. 3 ; and see *ante*,
 p. 201).

Remunera- The remuneration of a paid counting agent should be
 tion. included in that given to him for the other functions he
 is required to fulfil, as the M.E.C.I.P.A. does not authorize
 any separate payment or fee to any person in that
 capacity alone, or recognise the counting agent as a
 distinct paid official (see M.E.C.I.P.A. s. 13, sub. 1) ;
 and, therefore, if it should be held that attending as a
 candidate's agent at the counting of the votes is a
 proceeding "for the purpose of promoting or procuring
 the election" of such candidate (*ib.*), a payment to such
 an agent would be an illegal practice avoiding the
 election (*ib.* s. 17, sub. 1). Refreshment is but another
 form of payment (*Barrow-in-Furness*, 4 O'M. & H. 78),
 and, therefore, must not be given to any counting agent
 who acts gratuitously.

Liabilities. The counting agent is bound to exercise reasonable
 care and skill in the performance of the duties he under-
 takes, but is under no special liabilities.

Death or incapacity. In the event of death or incapacity, another counting
 agent may be appointed, and notice to the returning
 officer shall be given, as in the case of a polling agent
 (see *ante*, p. 202).

B.—COMMITTEES AND CANVASSING.

COMMITTEES. The M.E.C.I.P.A., as adapted by the G.O., R.O., and
 — U.O., is applied to the election of guardians and district
 councillors by the L.G.A., s. 48, sub. 3.

Definition. A committee is a person or persons to whom anything
 is committed (*re Scottish Petroleum Company*, 51 L. J. Ch.
 845) ; an individual or body to which others have com-
 mitted or delegated a particular duty, or who have taken
 on themselves to perform it in the expectation of their
 act being confirmed by the person or body they profess
 to represent (*Reynell v. Lewis*, 15 M. & W. 529) ; and it
 has been defined as meaning, in parliamentary elections,
 a limited number of persons in whom faith and confidence
 are placed by a candidate, and between whom there
 exists some privity (*Westminster*, 1 O'M. & H. 92). A

body of six hundred persons cannot rightly be denominated a committee (*ib.*).

Number and selection of committee.

A committee should consist of as few persons as possible, it should be appointed by the candidate and not by any political club or association, it should not be limited to members of any such club or organization, each member of the committee should be a person upon whose judgment and discretion the candidate can thoroughly rely, and it should be as representative of all classes of the electors as possible. A committee may be, individually as well as collectively, agents, for whose acts the candidate is responsible (see Election Agent, p. 443); and if held to be such agents, a corrupt or illegal practice committed by any one of them may avoid the election.

Illegal committees.

A committee must not be formed for an illegal object. Committees were formed, having paid agents at their heads, for the purpose of getting the voters together, so that the latter might be corrupted at any moment at which it might become necessary, and it was held that the proceedings of this committee amounted to bribery (*Stafford*, 21 L. T. 210). Again, while it is permissible to employ a single spy or detective to find out quietly whether corrupt practices are going on, on a particular side, it has been laid down that it is illegal to employ a "vigilance committee," or large body of persons, to search actively for corrupt practices, and that if such persons commit violence, it will amount to intimidation (*ib.*). A detective committee must, therefore, consist of as small a number of persons as practicable, and must be very careful that it does not, collectively or individually, interfere actively with any person, and that its investigations are not carried to an extent that might subject it to condemnation. As to clerks and messengers employed as detectives, see *ante*, p. 199.

Committees must be careful that all their acts are legal; thus, they must not publish, or sanction the publication of, any document which unjustifiably and unnecessarily reflects on the private character of others, as by imputing corrupt practices, or they may render themselves liable for damages in an action for libel (*Wilson v. Reed*, 2 F. & F. 149). Any person who acts as a member of a committee is liable to the penalties for any illegal practice, hiring, etc., in which he has participated (*Buckrose*, 4 O'M. & H. 114).

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COMMITTEE
ROOMS.

Definition.

No affirmative definition of a committee room has been enacted ; but the expression "committee room" shall not include any house or room occupied by a candidate at an election as a dwelling, by reason only of the candidate there transacting business with his agents in relation to such election ; nor shall any room or building be deemed to be a committee room by reason only of the candidate, or any agent of the candidate, addressing therein electors, committee men, or others (M.E.C.I.P.A. s. 34 ; C.I.P.P.A. s. 64). Beyond this, the election court must determine from the circumstances of each particular case, whether a room is or is not a committee room ; but by thus speaking of a room or *building*, the legislature seems to imply that a committee room may include more than a single room. It therefore seems probable, that if reasonably and *bonâ fide* required, and especially in the case of a central committee room, the term "committee room" would be held to apply to a set of offices, or entire building, comprising a clerk's room or rooms, and a private consultation room, and would not invariably be limited to a single room. Any room, place, or building habitually used for the business of the election, should be treated and deemed to be a committee room by the candidate.

Places pro-
hibited as
committee
rooms.

A committee room must not be in any premises which are licensed for the sale of any intoxicating liquor for consumption on or off the premises, or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises ; nor any premises where any intoxicating liquor is supplied to members of a club, society, or association, or any part of any such premises (M.E.C.I.P.A. s. 16, sub. 1 (a), (b)). If any such prohibited place is hired or used as a committee room, it is an illegal hiring (*ib.*). But any part of any of the above-named premises which is ordinarily let as chambers or offices, or for public meetings or arbitrations, is not within the above prohibition, if such part has a separate entrance, and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid (*ib.* sub. 2 ; and see *Devonport*, 2 Times L. R. 346). The existence of a refreshment or liquor bar is an indication that refreshments (food or drink) are supplied.

Clubs.

There is no permission, as there is at a parliamentary election, to use the premises of a permanent political

club as a committee room (*cp.* C.I.P.P.A. s. 20 ; Election Agent, p. 109) ; and such premises cannot therefore be so used, if they come within either sub-section of M.E.C.I.P.A. s. 16. The premises of a club where tea, coffee and other non-intoxicant drinks only are *supplied* to members, are not within the prohibition contained in M.E.C.I.P.A. s. 16, sub. 1 (*b*) ; but, if such drinks are “*sold* for consumption on the premises,” such a club falls within the prohibition contained in sub. 1 (*a*) of the same section.

It seems difficult to give any satisfactory reason for the change of language (“supplied” and “sold”) in these two sub-sections. The change must have been intentional, but it is impossible to state what effect the courts may give to the difference in language, or to lay down any rule applicable to all cases that may arise. It is suggested, however, that sub-section (*b*) is a limitation upon the generality of sub-section (*a*), and that consequently clubs are not prohibited from being used as committee rooms, except where they supply intoxicating liquors to members ; also that sub-section (*b*) may be looked upon as being to some extent repugnant to sub-section (*a*), and that thus, according to the ordinary canon of construction, the later of two repugnant provisions must prevail over the earlier. If so, a club where non-intoxicating drinks only are supplied is not a prohibited place. “Supplied” must, it is submitted, mean “supplied for payment,” as clubs where intoxicating drink is supplied gratuitously, unless for a nefarious purpose, do not exist, and the word “supplied” is perhaps used instead of “sold” because it is used in conjunction with “members,” while “sold” doubtless means sold to the public.

All licensed premises, refreshment houses, and clubs, where food or drink is sold, are thus unavailable as committee rooms. “Licensed premises” include both those licensed by justices and those licensed by the excise authorities, viz., ale-houses, wine and beer-houses, the premises of grocers and others licensed to sell wine, beer, etc. ; wholesale brewers, wine and spirit merchants, hotels, inns, coffee houses, railway refreshment rooms, and refreshment houses kept open between 9 p.m. and 5 a.m.

Public
elementary
schools may
be used.

But the premises of a public elementary school which cannot be used as a committee room at a parliamentary

CHAP. X.

election (C.I.P.P.A. s. 20), are not prohibited from being so used at an election of guardians or district councillors (M.E.C.I.P.A. s. 16) ; and, subject to the paramount right of the returning officer to use schools which receive parliamentary grants, and rooms which are maintained out of local rates, for taking the poll, and for counting the votes (B.A. s. 6 ; L.G.A. s. 48, sub. 3 (a)), such schools and rooms, when obtainable, may be used as committee rooms at an election of guardians or district councillors.

Hiring of
prohibited
places.

The hiring, or letting, or use of any of the above prohibited premises, or any part thereof, for a committee room is an illegal hiring (M.E.C.I.P.A. s. 16, sub. 1 (b)) ; and if the illegal hiring is by, or with the knowledge or consent of, the candidate, the election may be avoided (*ib.* s. 17, sub. 2, and s. 8, sub. 2). The hirer, and the person using, are equally guilty of an illegal hiring, and so also is the person letting, or permitting the use, if he knew it was intended to use the room as a committee room (*ib.* s. 16, sub. 1 (b)). The use of prohibited premises, whether with or without payment, is an illegal hiring.

Number of
committee
rooms.

The number of committee rooms that may be hired for payment is less than in the case of a parliamentary election. At an election of guardians or district councillors there may be hired for payment, if the election is for a parish, or united parish, or urban district, one committee room for the parish or district, and if the election is for a ward of the parish or district, one committee room for the ward, and if the number of electors in such parish, district, or ward exceeds 2000, one additional committee room for every 2000 electors, and incomplete part of 2000 electors over and above the said 2000 (M.E.C.I.P.A. s. 4, sub. 1 (c)). Thus, in a parish, district, or ward of from 2001 to 4000 electors inclusive, two committee rooms may be hired for payment ; in a parish, district, or ward having 4001 to 6000 electors, three committee rooms may be hired for payment, and so on. For the purpose of calculating the number of committee rooms that may be hired for payment, the number of electors shall be taken according to the enumeration of the electors in the register of parochial electors (M.E.C.I.P.A. s. 34 ; G.O. r. 27, par. 7 ; U.O. r. 26, par. 6), and consequently no deductions need be made for out-voters, deaths, or the like.

Payment.

No payment or contract for payment shall, for the

purpose of promoting or procuring the election of a candidate at an election of guardians or district councillors, be made on account of any committee room in excess of the number allowed (M.E.C.I.P.A. s. 4, sub. 1 (c)), under penalty of an illegal practice (*ib.* sub. 2), avoiding the election, if such payment or contract has been made by the candidate or his agent (*ib.* s. 8, sub. 2).

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All contracts for the hire of committee rooms should be entered into by the candidate or by some clerk or agent thereunto lawfully authorized by him, the terms of the hiring should be reduced into writing, and the price to be paid, and the date at which the occupation of the room will commence and end, should be distinctly specified. The sum agreed to be paid should be a fair and reasonable sum, and in no sense "colourable" (as to what is "colourable," see Election Agent, p. 394).

Hiring.

The agreement may be in the following form :—

Form of agreement.

I, *A. B.*, of

a candidate at the election of guardians [urban *or* rural district councillors] for the parish [district *or* ward] of to be held in December, 1894, do hereby agree to hire, and I, *K. K.*, of in consideration of the sum of £ , to be paid to me by the said *A. B.*, do hereby agree to let, the room known as [*describe the room or premises*] to be used from this day forth until the close of the poll as a COMMITTEE ROOM for the said candidate at the said election. And for the consideration aforesaid I, the said *K. K.*, further agree to supply reasonable firing, lighting and cleaning for the said room.

Dated this

(Signed)

A. B.

K. K.

Witness, *P. Q.*

(*Address*)

(*Description*)

An elector who receives payment for a committee room can vote; he is not "employed" within the meaning of M.E.C.I.P.A. s. 13.

The candidate, while thus limited as to paid committee rooms, is not prohibited from making use of any number of committee rooms that are lent to him gratuitously, provided such rooms are not in any prohibited place (as to which, see *ante*, p. 206).

Rooms lent gratuitously.

Every committee room should be advantageously situated with regard to the requirements of the polling district, and to the position of the polling stations in the district. The central committee room should be provided in the most central and convenient place with respect to the whole parish, district or ward; the district

Situation of rooms.

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committee room should, in like manner, be situated in the most central and accessible part of the polling district which it is intended to serve. There is nothing to require that a hired committee room shall be situated in the parish, district, or ward for which it is allowed; and thus, for example, if the number of electors is such that two committee rooms are allowed, they may both be situated within or without the parish, district, or ward for which they are allowed. Each committee room should be as spacious as is necessary for the requirements of the parish, district, ward, or polling district it is intended to serve.

Use of rooms. The committee room must of course not be resorted to or used for any corrupt, illegal, or improper purpose. It should be placarded with all the instructions, cautions, and notices in use in the election, and in any way applicable to those who frequent the room. The central committee room should be under the immediate care of the chairman or of some trustworthy clerk or messenger, and should be provided with at least one private room for consultations, committee meetings, etc. The district committee rooms should each be in charge of a responsible clerk, carefully selected by the chairman of committee or candidate, and it may be convenient to consider such clerk as in charge of the electors in the district to which his committee room belongs and of the communications, notices, etc., to be sent to them. Each clerk in charge should be in constant attendance at his room, and should be instructed to give information to all proper applicants, to see that favourable electors are fully instructed as to how and where to record their votes, and to take care that the documents, etc., supplied to his room are preserved undamaged and accessible. These will comprise:—(1) the register of voters for the whole parish, district, or ward; (2) the part of the register assigned to the polling district served by his committee room; (3) a list of dead or absent voters; (4) a list of the out voters, including those residing in other polling districts; (5) a list of voters residing in his district, but on the register for other polling districts. The clerk should also see that the candidate's instructions as to advertisements, arrangements for public meetings, etc., are punctually and properly carried out, and that no expense is incurred that the candidate has not expressly authorized.

To canvass is to solicit votes or interest, to use efforts to obtain an office or position; and a canvasser is one who solicits votes or goes about to make interest (Webster's Dictionary); one who solicits or persuades, or attempts to persuade any person to vote, or to abstain from voting (see the words in M.C.A. s. 77, now repealed by M.E.C.I.P.A. s. 38); one whose influence with the electors, either personal or by his powers of persuasion, is relied on, as distinguished from a mere messenger sent round to know how the electors mean to give their votes (*Bodmin*, 1 O'M. & H. 120). Canvassing may be either by asking a man to vote for A., or by begging him not to go to the poll, but to remain neutral, and not to vote for B. (*Westbury*, *ib.* 56).

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CANVASSING
AND CAN-
VASSERS.

Definitions.

Canvassing and canvassers are not mentioned among the purposes and capacities for which persons may be engaged or employed for payment or promise of payment (M.E.C.I.P.A. s. 13, sub. 1); and the payment of canvassers being thus illegal, unpaid volunteers must be found to supply their place, if a personal canvass be thought desirable.

Unpaid volun-
teer can-
vassers.

These volunteer canvassers are a great source of danger, and it is probable that in many cases a candidate will go to the poll without a canvass, or will limit himself to a personal canvass (as in *Harwich*, 3 O'M. & H. 68), or to a canvass through the post, rather than run the risks attending a canvass by volunteers. A canvasser who is authorized or recognized by the candidate, is an agent for whose corrupt and illegal acts he is responsible (see *Election Agent*, p. 441), and who thus may render the election void for acts of which the candidate is entirely ignorant, and of which he would highly disapprove.

Risks of a
volunteer can-
vass.

If, notwithstanding these risks, a canvass by volunteers be decided on, the number employed or authorized to canvass should be as small as possible, each volunteer should be informed that he is an agent, for whose acts the candidate whom he desires to assist will be responsible, and that the election may be avoided if he is guilty of any corrupt or illegal practice. The candidate should also endeavour to keep under his own control and observation, and apart from the electors, those volunteers upon whom he can the least rely; and should bear in mind that these volunteers must be wholly unpaid, that the giving of refreshment is only another

Precautions to
be observed.

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form of payment, and that no office, place, or employment, valuable security or other equivalent for money, or valuable consideration must be given or promised, under penalty of an illegal employment, and of an illegal practice, which may avoid the election if given or promised by the candidate, or if paid by any agent (see Election Agent, p. 35).

The candidate should also hand to every canvasser, and should paste into every canvass book issued by him, printed instructions as to the acts which will render the election void, and he should mark or initial, number, and keep a careful record of, every canvass book issued by him.

Register,
where obtain-
able.

In order to conduct a canvass, a copy of the register is required. This is obtainable in a county from the clerk of the peace, and in a city or borough from the town clerk (6 & 7 Vict. c. 18, s. 49). The charge is regulated by sch. D, No. 2, to 6 & 7 Vict. c. 18, according to the number of names, and is for every copy of the register, or any part thereof, as follows:—

			s.	d.
Not exceeding	1,000 names	.	1	0
Exceeding	1,000 and not exceeding	3,000	2	6
"	3,000	" "	5	0
"	6,000	" "	7	6
"	9,000	.	10	0

Canvass book.

The canvasser should also be provided with a canvass book, and a pen and pencil. The following is a form of canvass book:—

[On both sides of cover.]

Election of Guardians [Rural or Urban Councillors], December, 1894.

Polling District.

Polling Station.

Election of A. B., Esq.

Book No. .

Mr. , Canvasser.

This book, when not in use, is to be returned to:—

Mr. .

whose office is at:—

Street or House.

[Name of village or town.]

[Inside front of cover.]

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INSTRUCTIONS.

Mark a line (|) or a (X) in the appropriate column ("For, Against, Doubtful") to show how, after personal inquiry of the voter, or of his relatives, neighbours or friends (as you may find best), you believe each voter will vote. If the voter declines to answer your inquiries, or claims the secrecy of the ballot, he generally belongs to the opposite party.

If you find a voter holds strong views on any special point, or desires to know your candidate's views on any such point, or that it is desirable that he should have any particular leaflet circulating at the election, but which you may not have with you at the time—note the facts in the column headed "Special points or Leaflet required."

Distribute freely the candidate's address, and all the leaflets with which you are entrusted; and when your supply is exhausted, report the fact at your Committee Room.

If possible obtain a promise to vote for your candidate from every voter whom you canvass, and ask every voter to poll early. A voter whose name is on the register, is entitled to vote notwithstanding that he has since removed to another address, and notwithstanding that his name is incorrectly stated on the register.

If any voter is *absent, dead, or removed*, mark a line or cross in the appropriate column, and if the voter has *removed*, ascertain his present address, and add it under his name. Report all these cases as soon as possible at your Committee Room.

Fill up the daily return sheet (with which you are supplied) from your canvass book at the close of each day's work, and send such return into your Committee Room at once.

Report the results of your canvass at your Committee Room on the poll day about every hour.

Take careful note of any practice which you may observe and deem to be illegal or improper on the part of the opposite party, and report same as soon as possible at your Committee Room.

[On page 1.]

WARNINGS.

You must **Not** give, offer, promise, or procure, either to any voter, or to any other person for or on his behalf, any money, food, drink, office, employment, or any other consideration.

You must **Not** threaten any voter, or any of his friends, relatives or servants, with any consequences whatever.

You must **Not** counsel or induce any voter to vote twice, or to apply for a ballot paper in the name of any other person, living or dead, or of any fictitious person.

You must **Not** pay for the conveyance of any voter to or from the poll, or borrow or use any public stage or carriage, or horse or animal which is kept or used for letting out on hire.

You must **Not** induce or procure any prohibited person to vote.

You must **Not** publish a false statement of the withdrawal of the opposite candidate.

You must **Not** incur any liability or make any payment whatever, however small.

You must **Not** vote if you are employed for payment or promise of payment.

 See also the Caution on the last page of this Book.

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[Canvass pages—pp. 2 et seq.]*

Street or Place.

No. or Name of House.	Name of Voter.	No. on Register.	Absent.	Removed.	Dead.	Politics.	For.	Against.	Doubtful.	Special Points, or Leaflet Required.	Remarks.

* NOTE.—The columns headed “No. or Name of House,” “Name of Voter,” “No. on Register,” and all the blank spaces on the cover, should be carefully filled up before the book is handed to the canvasser. If the canvass is made on behalf of two candidates, the columns “For,” “Against,” “Doubtful,” must be duplicated, and the names of the candidates written over each trio of columns.

[On last page, and inside back of cover.]

CAUTION.

The election of *A. B.*, Esq., for this parish [district or ward] will be RENDERED VOID if any canvasser or volunteer assistant commits any of the following offences:—

CORRUPT PRACTICES.

Bribery—whether by giving, promising, procuring, or receiving any money, valuable consideration, office, place or employment.

Treating—direct or indirect, whether by corruptly giving, providing, paying for, accepting or taking, any meat, drink, entertainment, or provision.

Undue influence—direct or indirect, whether by the use or threat of force, violence, or restraint, injury, damage, harm, or loss, abduction, duress, or fraudulent device.

Personation—or the aiding, abetting, counselling, or procuring the commission of personation.

ILLEGAL PRACTICES.

Paying for the conveyance of voters to or from the poll.

Paying for the exhibition of bills, } All lawful contracts for these
addresses, or notices. } purposes have been entered

Paying for any committee room. } into by the candidate.

The *punishment for a corrupt practice*, other than personation, includes ONE YEAR'S IMPRISONMENT with or without hard labour, or a FINE of TWO HUNDRED POUNDS; the punishment for personation is two years' imprisonment with hard labour; and *seven years' incapacity to vote or to hold any public or judicial office* follows in either case.

The *punishment for an illegal practice* may be a *fine of ONE HUNDRED POUNDS* and *five years' incapacity to vote* in this parish [or district].

Where information is given to the Public Prosecutor that any corrupt or illegal practices have prevailed, it is his duty to make such inquiries, and to institute such prosecutions as the case appears to him to require.

Offenders are also liable to be ordered to pay costs.

All persons assisting in the election of *A. B.*, Esq., are hereby warned and prohibited from committing any of the above offences, or any other offence against the law. No voter employed for payment can vote, and no person employed for payment should canvass.

The canvasser should also possess a sufficient number of the candidate's address to the electors, printed on cards or paper of a convenient size, any leaflets which it may be desired to circulate, a quantity of canvassing cards, and a number of daily return sheets. The possession of the candidate's address will enable the canvasser to supply it to such electors as have not received or read it, and to correct authoritatively any misapprehension on the part of the elector on any of the matters dealt with in the address. Canvasser's other requisites.

The canvassing card may be in the following form :—

Parish [or District or Ward] of _____ .

Election of Guardians [or Urban or District Councillors]
in the year 1894.

Mr. *A. B.* the [liberal] candidate respectfully solicits your vote and interest.

C. D.,
Chairman of Committee for the said *A. B.*

The daily return sheet should correspond in its headings with those in the canvass book, and should be filled up from the latter by the canvasser at the close of each day's work, and at once forwarded by the canvasser to his committee room.

The reasonable and necessary expenses of a canvass by volunteers may, it seems, be incurred by the candidate, for although the payment of canvassers is illegal, as already mentioned (*ante*, p. 211), there is no prohibition against expenditure for the materials for a canvass. Thus, there is no illegality in expenditure for canvass Expenses of canvass.

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books, registers, circulars, cab hire, or travelling expenses incurred in canvassing. And it has been held that a payment to a registration agent for canvass books, polling district books, directed envelopes, and wall sheets of voters' names, may be incurred (*Ipswich*, 54 L. T. 625).

Dangerous
practices in
canvassing.

The canvasser must carefully avoid exercising any undue influence (as to which, see *Election Agent*, p. 423), and must remember that there are certain practices in canvassing that have been condemned by the election judges. It has been laid down that canvassing ought not to be carried on up to the last moment before polling; that a canvasser should not station himself in front of a polling booth to record those who go up to vote, and to urge them as to which way they should vote; and that although such practices may not amount to undue influence over the voters, or avoid the election, yet they are illegitimate practices, and ought never to be resorted to (*Lichfield*, 3 O'M. & H. 138); also that canvassing handbills or polling cards, should not be obtruded or thrust by physical force into the hands of voters as they are going into the polling station (*Stepney*, 4 *ib.* 52, 53). And it has been said that it is a dangerous practice to organize canvasses at public-houses, because it induces indiscriminate drinking, and may lead to charges of treating being established against the candidate, and to the landlord supplying drink to the friends of the committeemen and workers beyond that which he is authorized to supply to the latter, and on the chance of his being ultimately paid (*Tamworth*, 1 *ib.* 86).

A system of dividing a constituency into wards, and of forming committees among the voters, and employing them to send out canvassers, has also been condemned as a dangerous system, and as one which, if merely colourable, will avoid the election (*Coventry*, 1 O'M. & H. 102); as to what is "colourable," see *Election Agent*, p. 324.

Canvassing by
post.

Canvassing may be by circulars and letters sent through the post office, and, where practicable, this is by far the safest mode of ascertaining the views and intentions of the electors. There is then no direct contact with the electors, and the only expenses incurred are those of printing, postage, and the addressing of envelopes or wrappers, and these expenses, being capable of being known or ascertained, can be kept completely under control.

The candidate may distribute a voter's polling card to every elector on the register a day or two before the polling day. In preparing such a card, care should be taken not to frame in it such a manner as that it can be alleged to be a device to impede or prevent the free exercise of the franchise (see *Gloucester*, 2 O'M. & H. 60) ; or to mislead, deceive, or trick electors into voting in a particular way (*ib.* ; and see *Stepney*, 4 O'M. & H. 55). The voter should not be told that if he "marks his ballot paper otherwise than in the way in which the card is marked, his vote will be invalidated" (*Gloucester*, 2 O'M. & H. 60) ; nor should he be told to "be careful not to make any other mark, or your vote will be lost," or anything to the like effect ; and, if the card is illustrated with the form of ballot paper, care should be taken that the same fairly represents a copy of the ballot paper (*Stepney*, 4 *ib.* 55). If these principles be duly attended to, there is nothing illegal or improper in these polling cards, and they are useful as they contain information (the voter's register number and polling station) which most electors do not possess, and will not be at the trouble of ascertaining. Without knowing his polling station, a voter cannot poll ; and the knowledge of his register number facilitates the taking of his vote, and thus, during the last hour of the poll, enables a greater number of electors to record their votes than might otherwise be possible. The following form is suggested :—

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Voter's polling card.

Union of
Parish of [or Ward of , or United Parishes of]. Form.

ELECTION OF GUARDIAN OR DISTRICT COUNCILLORS IN
THE YEAR 1894.

Polling Day, December, 1894.
Poll open from to P.M.

Register Number,
Name,
Abode,

YOUR POLLING STATION IS AT
THE NATIONAL SCHOOL.

When inside the polling station you will give your number and name as above, and a ballot paper will then be handed to you. See that the presiding officer stamps your ballot paper before he gives it to you.

PLEASE VOTE for A. B. and C. D.

by making a X on the right hand side in the square space opposite the name of each of them, as shown in the form of Ballot Paper below.

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FORM OF BALLOT PAPER.

AND HOW TO MARK IT.

1	A. A.	
2	A. B.	X
3	C. D.	X
4	E. F.	

OBSERVE : Do not sign your name, or initials, or make any mark other than the cross, for if you do your *vote may be lost*. When you have marked your ballot paper, fold it up, show the stamp at the back, *not your cross*, to the presiding officer, and drop the ballot paper, NOT THIS CARD, into the ballot box.

You have only [two] votes, and can only vote for [two] Candidates.

PLEASE POLL EARLY

to avoid mistakes, and the risk of any one else voting in your name. After you have polled, please hand this card to the messenger outside the polling station, or leave same at the Committee Room No. ,

Street, and by so doing you will greatly assist the Committee.

C.—ELECTION MEETINGS, PRINTING AND ADVERTISING.

ELECTION MEETINGS.

The M.E.C.I.P.A., as adapted by the G.O., R.O., and U.O. is applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3.

Places prohibited from use for meetings.

With the exception as to licensed premises mentioned *infra*, all places prohibited from use as committee rooms (as to which, see *ante*, p. 206) are equally prohibited from use for holding meetings for the purpose of promoting or procuring the election of a candidate at an election of guardians or district councillors (M.E.C.I.P.A. s. 16, sub. 1), whether such meetings be public or private, and whether such places be used with or without payment.

What is an election meeting.

But the meeting, to be within this prohibition, must be a meeting held "for the purpose of promoting or procuring the election of a candidate" (M.E.C.I.P.A. s. 16, sub. 1). A meeting held to present a requisition to a person to stand for election, and to induce him to become a candidate, is not an election meeting; for a meeting held to select a candidate is not a meeting to

procure his election, and there is a great distinction between getting a candidate, and promoting his election after you have got him (*Norwich*, 4 O'M. & H. 85, 86). If the primary, and direct, and real object is to get a candidate, the meeting is not an election meeting, although it indirectly promotes the interest of the party; but if the nominal object is to get a candidate, while the real object is to promote the election of a particular candidate, the meeting is an election meeting (see *ib.*).

And nothing in the M.E.C.I.P.A. shall render it unlawful to hold a *meeting* for the purpose of promoting or procuring the election of a candidate to the office of rural district councillor on any licensed or other premises not situate in an urban sanitary district, or in the administrative county of London (R. O. r. 26, par. 7). As to what are "licensed premises" and what is an "urban sanitary district" (see *ante*, pp. 207, 3). This exception in the case of rural parishes is doubtless made in consequence of the difficulty experienced in some parishes in obtaining the use of any other premises for holding meetings. The exception does not, it will be observed, extend to the use of licensed premises as committee rooms; and care should therefore be taken that no election business, which is usually transacted in a committee room, is transacted in any place permitted for use for an election meeting but prohibited from use as a committee room.

Places permitted for use for meetings.

Licensed premises in rural parishes.

Although a borough parliamentary election cannot be held in any church, chapel, or other place of public worship (2 & 3 Will. IV. c. 45, s. 68), there is, apart from restrictions under trust deeds, etc., no legal objection to holding election meetings in dissenting chapels. A schoolroom in which meetings for public worship are occasionally held does not appear to fall within this prohibition, and there is no enactment rendering an election liable to be set aside for a disregard of this prohibition.

Churches, chapels, and vestry rooms.

But although vestry meetings may, under certain circumstances, be held in a church, chapel, or churchyard of the Church of England, the holding of "musters" or meetings in any such church, etc., is forbidden; and a disregard of this prohibition amounts to the ecclesiastical offence of profanation (see Canon 88), and might lead to brawling, which is also an ecclesiastical offence and a statutory offence (23 & 24 Vict. c. 32, s. 2; and see

CHAP. X.

Asher v. Calcraft, 18 Q. B. D. 607), whether it be committed in a churchyard (which is God's acre), or in a church (which is God's house). Upon these grounds the incumbent and churchwardens ought, it is submitted, to refuse permission for the holding of any election meeting in any church, chapel, or churchyard, and should remove any person attempting to hold any such meeting in defiance of their prohibition.

Letting does not disqualify elector.

There is nothing to prevent an elector from letting any room or place for an election meeting, not being a prohibited place, nor does he thereby disqualify himself from voting.

Bands of music, torches, flags, banners, etc.

No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at an election of guardians or district councillors, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction (M.E.C.I.P.A. s. 12, sub. 1), under penalty of an illegal payment (*ib.* sub. 2), and of an illegal practice, if the offence be committed by the candidate, or with his knowledge and consent (*ib.* s. 17, sub. 2; and see *Stepney*, 4 O'M. & H. 39; *Walsall*, *ib.* 127; *East Clare*, *ib.* 162; *Stepney*, *ib.* 179; *Pontefract*, *ib.* 200).

A flag or banner to come within the above provision must, it seems, be one used as a mark of distinction (*Stepney*, 4 O'M. & H. 181). The *giving or providing* of cockades, ribbons, or other marks of distinction is not illegal *per se*, as it is at a parliamentary election (see 17 & 18 Vict. c. 102, s. 7), and the giving or providing by any person of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction, is not illegal, if no payment, or contract for payment, pecuniary reward, valuable security or consideration, be made (M.E.C.I.P.A. ss. 12, 34; C.I.P.P.A. s. 64); and thus a gift or gratuitous provision thereof for the purpose of the election is permissible. The *wearing* of a cockade, ribbon, flower or other mark of distinction, is not illegal (see *Walsall*, 4 O'M. & H. 127; *East Clare*, *ib.* 162; *Stepney*, *ib.* 179), but the wearer must provide it for himself. The *playing* of a band of music, or of a single musical instrument, the *exhibition* of a torch, flag or banner, and the *lending* of one or several musical instruments, torches, flags, or banners, is also not illegal, if the person possesses same, or manufactures same himself, and receives no valuable consideration in respect thereof.

The payment, etc., for bands of music, etc., is illegal as soon as the election has commenced, but up to that time is not illegal (*Hexham*, 29 Nov. 1892). CHAP. X.

Hat cards, bearing the photographic likeness of the candidate with the words "We're bound to win," "Play up, Swifts," "Vote for James," made for the purpose of being worn in the hat, and so worn and used, have been held to be "cockades or other marks of distinction" (*Walsall*, 4 O'M. & H. 126, 200); but in a later case this decision was questioned, and it was held that cards bearing the words "Men of Clare, remember Parnell"; "Vote for Redmond," and distributed in the interest of the candidate, but not made or intended to be worn or used as badges, were canvassing cards and not marks of distinction within the above statute, although largely worn in the hats of the candidate's supporters (*East Clare*, *ib.* 162); and in a still later case the judges differed as to whether certain yellow cards which had been extensively worn, were marks of distinction (*Pontefract*, *ib.* 200). The result of these decisions seems to be that a card is not a cockade or mark of distinction, unless expressly made for the purpose of being worn or used as a badge or mark of distinction. Cockades.

Broad strips of canvas, with the words "Isaacson for Stepney" upon them, stretched across different streets throughout the constituency, have been held to be "banners" and "marks of distinction," and not merely canvass advertisements (*Stepney*, 4 O'M. & H. 179). And it would seem that a banner to be within the prohibition as to payment (M.E.C.I.P.A. s. 12) must be a banner used as a mark of distinction, and that all banners whatever are not within that prohibition (*Stepney*, 4 O'M. & H. 181). Thus, a banner announcing that a room is the committee room of a particular candidate, is not used as a mark of distinction, and therefore, it would seem, is not within the above prohibition as to payment (*ib.*). The expense of repairing a roof, which had been damaged by a rope from which an election banner was displayed, has been held not to be a payment on account of a banner within the C.I.P.P.A. s. 16 (*Stepney*, 4 O'M. & H. 39). Banners.

The police may take possession of flags or banners held or used by persons attending an illegal meeting (*R. v. Fursey*, 6 C. & P. 81, 86).

CHAP. X.

Chairman and
his functions.

Those who summon a meeting may lay down the order of the proceedings (*R. v. Chester, Archdeacon of*, 1 A. & E. 345), and it devolves on the chairman to preserve order in the meeting, and to regulate its proceedings (*R. v. D'Oyley*, 12 A. & E. 159; *Lucas v. Mason*, L. R. 10 Exch. 254), so that the object for which the meeting is called may be accomplished (*Pedley v. Chapman*, 7 Times L. R. 396). He should, as far as he can, insist on the use of decorous and temperate language; should endeavour to repress rude or violent interruption or disorder; and if his appeals and directions are not obeyed by the meeting, he is entitled to declare that "this meeting is now adjourned," or "at an end," or "closed," and to quit the chair. He should permit any speaker to challenge his ruling in a proper manner, should put all resolutions and amendments properly proposed and seconded and falling within the scope of the meeting (see *Henderson v. Bank of Australasia*, 45 Ch. D. 330), and in all that he does, he should bear in mind that absolute impartiality is one of the first principles of his office.

Expulsion of
disturbers.

It is by no means easy to draw the line between the circumstances in which the expulsion of a disturber would be held to be justifiable, and those in which it would be held to amount to an assault (see *Vaughan v. Hampson*, 33 L. T. 15). Merely crying out "hear, hear," and putting questions to a speaker, and making observations on his statements (see *Wooding v. Oxley*, 9 C. & P. 1), or expressing, by applause or hisses, the sensations which naturally present themselves at the moment, would not be sufficient to justify expulsion (see *Clifford v. Brandon*, 2 Camp. p. 369; *R. v. Forbes*, 2 St. Tr. N. S. p. 960; *Gregory v. Brunswick, Duke of*, 6 M. & G. 205); but the expression of censure, although it may be noisy, must not be riotous; and if it be premeditated by a number of persons confederated beforehand to cry down the speaker, it becomes criminal (*R. v. Forbes*, *Gregory v. Brunswick, Duke of*, *ubi sup.*). And if a person wilfully disturbs a meeting, and by persistent noises or interruption prevents the object with which such meeting has been convened from being carried out, it would seem to be perfectly lawful to eject him from the meeting, and, if necessary, by force (see *Wood v. Leadbitter*, 13 M. & W. 838; *R. v. Graham*, 9 W. R. 738). But no unnecessary violence should be used, the

person to be removed should be requested to depart before force is used to eject him (*Tullay v. Reed*, 1 C. & P. 6); he should, if possible, be removed by pressure, or in some other peaceable way (*Imason v. Cope*, 5 C. & P. 193); care should be taken to remove him without injury to his person or clothes, and the ejection should be by, or by the orders of, those who are entitled to the immediate possession of the room; that is to say, those who have hired it, or to whom it belongs, or has been lent. The person ejected must not be given in charge to the police, unless he has done something amounting to a breach of the peace (*Wooding v. Oxley*, 9 C. & P. 1).

The payment and employment for payment of stewards and persons to keep order at an election meeting is illegal (*Ipswich*, 4 O'M. & H. 72); but there is no illegality in the employment of unpaid volunteers for these purposes; and where any serious disorder is apprehended, the proper course is to communicate with the magistrates and police authorities, who, if need be, will swear in a sufficient number of special constables to assist the police in preserving the peace (*ib.*; *Nottingham*, 1 O'M. & H. 246; *Salisbury*, 3 *ib.* 134). Under no circumstances should "roughs" be employed (*Salford*, 1 O'M. & H. 140; *Ipswich*, 54 L. T. 624; and see *Longford*, 2 O'M. & H. 13).

The engagement or employment for payment of a lecturer or speaker to address a public meeting, in order to promote or procure the election of a particular candidate, is an illegal employment (M.E.C.I.P.A. s. 13), subjecting the offender to a fine (*ib.* s. 17, sub. 1); if the employment be by the candidate or with his knowledge and consent, it is also an illegal practice (*ib.* sub. 2), which may avoid the election (*ib.* sub. 8). And the giving of refreshment is only another form of payment (*Barrow-in-Furness*, 4 O'M. & H. 81). But if the lecture and the lecturer can be kept wholly distinct from the candidate and his impending election, so that the lecture is not given in any way for the purpose of promoting or procuring the election of a particular candidate at a particular election, but is given merely as part of the ordinary work of a political party or association, there is, it is submitted, no illegality in paying the lecturer.

The payment of the mere travelling expenses of a volunteer lecturer or speaker at an election meeting is

Stewards and persons to keep order.

Lecturers and speakers.

Employment for payment.

Travelling expenses of volunteer lecturers and speakers.

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perhaps not illegal, but such a payment must not include anything in the way of *remuneration* for the speech or lecture, or for refreshment; although the voluntary gift by the candidate to the lecturer of a night's lodging, a breakfast or dinner, may, it is submitted, be lawfully made.

SPEECHES.

Every speaker must be careful that any speech that he may make is in no way slanderous, and every one who seeks to aid the candidate with his pen must see that any report of any meeting, or literary article, is not libellous. The subject is a large one, and beyond the scope of this work; but some of the leading principles likely to come under consideration in connection with election meetings, may be concisely mentioned as a guide to the reader, who must have recourse to the well-known text-books on the law of defamation for fuller information on the subject.

Licence in speech.

Considerable licence in speech is not unusual at election meetings, but it is clear that the law attaches no especial privilege to speeches uttered at election times. Nor may a person say of another at a public meeting that which he cannot say in private. Slanderous words at a public meeting will support an action in the same manner as if uttered in private (*Harwood v. Astley*, 1 B. & P. N. R. 48; *Duncombe v. Daniell*, 8 C. & P. 222, approved *Pankhurst v. Hamilton*, 3 Times L. R. 505).

Fair and *bona fide* comment.

A speaker has full freedom of speech on matters of public interest and general concern. He may express his honest opinion, however adverse, of the policy or public conduct of any public man, and his comments, if uttered fairly, with an honest purpose, and not maliciously, are not actionable, even though they may affect the reputation of individuals (*Davis v. Duncan*, L. R. 9 C. P. 396; *Wason v. Walter*, L. R. 4 Q. B. 93, 94; *Jenner v. A'Beckett*, L. R. 7 Q. B. 11; *Merivale v. Carson*, 20 Q. B. D. 275). A candidate or an elector may comment on the public life and acts of his opponent, and, in his criticisms, may make imputations on his opponent's motives, provided that such imputations arise fairly and legitimately out of his public life and acts (*Parmiter v. Coupland*, 6 M. & W. 105; and see *Campbell v. Spottiswoode*, 3 B. & S. 776). But the mere fact that his opponent is also a candidate for election, does not give the speaker a right to discuss all his private life and history. How far electors are entitled

to discuss personal matters which affect a candidate's fitness to represent them on a board of guardians or district council, is not clear (see *Harwood v. Astley*, 1 Bos. & P.N.R. 47; *Duncombe v. Daniell*, 8 C. & P. 222; *Davis v. Duncan*, L. R. 9 C. P. 396; *Pankhurst v. Hamilton*, 3 Times L. R. 504). But they certainly must abstain from speaking dishonestly, or maliciously, or recklessly of him (*Wilson v. Brown*, 1 Times L. R. 412), from making groundless or unfounded charges, and from unnecessarily and improperly imputing to him wicked or corrupt motives for his conduct (*Parminter v. Coupland*, 6 M. & W. 105; *Campbell v. Spottiswoode*, 3 B. & S. 769).

Thus, a speaker may not falsely charge another with the commission of a crime, and therefore may not falsely charge another with bribery or corruption (*Bendish v. Lindsey*, 11 Mod. 194; *Dickeson v. Hilliard*, L. R. 9 Exch. 79); nor may a speaker utter false and defamatory words in reference to a person in his trade or profession, or which disparage him in an office of public trust. But words which impute immorality or dishonourable conduct, not amounting to a crime or to fraud or dishonesty in business, are not actionable when merely spoken, unless the accusation has caused special damage to the person defamed (*Barnett v. Allen*, 3 H. & N. 376; *Chamberlain v. Boyd*, 11 Q. B. D. 407).

Slanderous
speeches.

A speaker must carefully abstain from using blasphemous words. It is blasphemy, punishable at common law, scoffingly or irreverently to ridicule or impugn the doctrines of the Christian faith; but any man may, without subjecting himself to any penal consequences, soberly and reverently examine and question the truth of these doctrines which have been assumed as essential to it (*Shore v. Wilson*, 9 Cl. & F. p. 524; *R. v. Carlisle*, 1 St. Tr. N. S. 1033). If the decencies of controversy are observed, it would seem that even the fundamental doctrines of religion may be attacked, without rendering the speaker guilty of blasphemy (*R. v. Ramsay & Foote*, 48 L. T. p. 739; *R. v. Bradlaugh*, 15 Cox C. C. 217; but see *Pankhurst v. Thompson*, 3 Times L. R. p. 200); it is the mischievous abuse of this state of intellectual liberty, and the wilful intention to pervert, insult, and mislead others, by means of licentious and contumelious abuse applied to sacred subjects, or by wilful misrepresentations or artful sophistry calculated to mislead the

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ignorant and unwary, which constitute blasphemy (*R. v. Ramsay & Foote*, 48 L. T. p. 736 ; *R. v. Bradlaugh*, 15 Cox C. C. 217). And it is actionable, maliciously to assert in a speech that another person has been guilty of the crime of blasphemy (*Pankhurst v. Hamilton*, 3 Times L. R. 500 ; *Pankhurst v. Sowler*, *ib.* 193).

Seditious
words.

Again, a speaker must not use seditious words, or be guilty of sedition. Seditious words may be defined as any words which tend to bring into hatred or contempt the sovereign, the constitution of the realm, or the Houses of Parliament, or to excite the Queen's subjects to attempt the alteration of any matter in church or state as by law established, otherwise than by lawful means (60 Geo. III. & 1 Geo. IV. c. 8, s. 1). To utter any such words is a misdemeanour, subjecting the offender to fine and imprisonment (see *R. v. Winterbotham*, 22 Howell's St. Tr. 823, 875 ; *R. v. Cork, Justices of*, 15 Cox C. C. 149) ; and even if the circumstances do not call for severe punishment, a person guilty of this offence may be required to find sureties for his good behaviour (*ex parte Seymour v. Davitt*, 15 Cox C. C. 242 ; 12 Ir. L. R. 46).

It is sedition to speak words defamatory of the sovereign or either House of Parliament, or subversive of law and order, with intent to produce public disorder, or to foment or promote rebellion (60 Geo. III. & 1 Geo. IV. c. 8, s. 1 ; and see *R. v. Collins*, 9 C. & P. 456 ; *R. v. Burdett*, 1 St. Tr. N. S. 1 ; *R. v. Burns*, 16 Cox C. C. 355). But there is no sedition in criticising or censuring the servants of the crown, or the administration of the law, or in seeking redress of grievances, or in the fair discussion of all party questions, if no corrupt or malicious motives are imputed (*R. v. Sullivan*, 11 Cox. C. C. 44), and if such discussions are conducted in a calm, quiet, and temperate manner (*R. v. Collins*, 9 C. & P. 461). "The people have a right to discuss any grievances they may have to complain of, but must not do it in a way to excite tumult" (*ib.*).

Words
amounting to
contempt of
court.

It is a contempt and misdemeanour to speak words defamatory of any superior court of justice, or of the administration of justice, with intent to obstruct and invalidate its proceedings, to annoy its officers, to diminish its authority and dignity, and to lower it in public esteem ; and such contempts are punishable summarily by the court itself with fine and imprison-

ment as well as by indictment (*R. v. Gordon, Lord George*, 22 Howell's St. Tr. 175; *R. v. Jeff*, 15 Vin. Abr. 89; *R. v. Hart & White*, 30 Howell's St. Tr. 1131, 1194). But there is no contempt in just criticism on the administration of the law; and a speaker may fairly and freely criticise the proceedings of courts of justice and of individual judges, if he do so after the case is over, and without malignity, without imputing corrupt or malicious motives (*R. v. Sullivan*, 11 Cox C. C. 44), and without seeking to bring into hatred and contempt the administration of justice (*R. v. White*, 1 Camp. 359 *n.*).

A fair and accurate report in a newspaper of the proceedings of a public meeting, if made and published without malice, and not containing anything blasphemous (see *ante*, p. 225), seditious (see *ante*, p. 226), or indecent, is, *primâ facie*, privileged. But the meeting must have been *bonâ fide* and lawfully held, for a lawful purpose, and for the furtherance or discussion of a matter of public concern, the publication must be for the public benefit, and the editor or proprietor must, if requested, insert in his newspaper in which the report complained of appeared, a reasonable letter or statement by way of contradiction or explanation of such report, otherwise all privilege is lost (51 & 52 Vict. c. 64, s. 4; and see *Pankhurst v. Sowler*, 3 Times L. R. 193; *Pittard v. Oliver*, 1891, 1 Q. B. 474). The publication of blasphemous, seditious, and indecent matter cannot be for the public benefit, and cannot therefore, under any circumstances, be justified (*R. v. Duffy*, 9, Ir. L. R. 329; *ex parte O'Brien*, 15 Cox C. C. 180).

A public newspaper may comment upon, and discuss in a fair and *bonâ fide* manner, the public conduct of the candidates, their agents, and prominent supporters, and all matters of local interest arising during the contest; and such comments, though unfavourable, are privileged, and do not amount to a libel. But the distinction cannot be too clearly borne in mind between mere comment (or criticism) and allegation of fact, such as that disgraceful acts have been committed, or discreditable language used (*Davis v. Shepstone*, 11 App. Cas. 190). It is one thing to comment upon or criticise, even with severity, the acknowledged or proved acts of a public man, and quite another to assert that he has been guilty of particular acts of misconduct (*ib.*).

REPORTS.

Newspaper reports of public meetings.

Libellous comments.

CHAP. X.

Imputations
of corrupt
conduct.

Thus, it is libellous to impute to a solicitor disgraceful conduct in having at an election disclosed confidential communications made to him professionally (*Moore v. Terrell*, 4 B. & Ad. 870); and, though a newspaper may comment on the fact that corrupt practices extensively prevailed at a recent election, it is not privileged in imputing that a specified individual has been guilty of a particular corrupt practice (*Wilson v. Reed*, 2 F. & F. 149; *Dickeson v. Hilliard*, L. R. 9 Exch. 79); nor is the writer of a letter privileged in making such an imputation to a local authority that has neither interest, duty, nor power to deal with the allegation and complaint (*Hebditch v. MacIlwaine*, 10 Times L. R. 387). A public writer may comment on the distribution of government patronage, and may criticise the fitness of any person to be a member of a board of guardians or district council; but he may not assert that there had been a corrupt promise or understanding that such person would receive an appointment, or be otherwise rewarded if he always voted according to order (*Seymour v. Butterworth*, 3 F. & F. 372). The political address of a candidate, and the conduct of persons attending an election meeting, are fair subjects for *bonâ fide* discussion, and unfavourable comments upon such address or conduct are privileged (*Davis v. Duncan*, L. R. 9 C. P. 396); and so is the public career, but not the private life or circumstances, of any candidate (*Duncombe v. Daniell*, 8 C. & P. 222). And a public man who calls attention to alleged grievances by speeches at public meetings or otherwise, must be prepared to tolerate ridicule, caricaturing, and sneering in a public newspaper; and to have his assertions controverted, and his alleged grievances held up to public derision and condemnation (*Odger v. Mortimer*, 28 L. T. 472).

Newsvendor
of libellous
newspapers.

A newsvendor is not liable for selling a newspaper containing a libel, if he sold it in the ordinary course of his business, did not know that it contained a libel, if his ignorance was not due to any negligence on his part, and he had no ground for supposing that the newspaper was likely to contain libellous matter (*Emmens v. Pottle*, 1 Cab. & E. 553; 16 Q. B. D. 354).

PRINTING
AND ADVER-
TISING.

Every bill, placard or poster, having reference to an election of parish councillors, shall bear upon the face thereof the name and address of the printer and pub-

lisher thereof; and any person printing, publishing, or posting, or causing to be printed, published, or posted, any such bill, placard, or poster without such name and address, shall, if he is a candidate, be guilty of an illegal practice, and if he is not the candidate, shall be liable to a fine of £100 (M.E.C.I.P.A. s. 14). This provision is mainly intended as a check upon anonymous, scurrilous, and untrue placards; but, though such is its intention, it is not limited in any way, but extends to all bills, etc., having reference to the election; and if, therefore, the candidate causes any such bill, placard, or poster, to be printed, published, or posted which does not bear upon its face the name and address of the printer and publisher, the election may be avoided (*ib.* s. 8, sub. 2), unless the candidate gets relief (see *post*, pp. 330, 345). Except on the application of a candidate, no relief in respect of this offence can be granted, as in the case of other persons the offence is neither an illegal practice, nor an illegal payment, employment, or hiring, and therefore does not fall within M.E.C.I.P.A. s. 20. A printer, therefore, who omits to print his name, etc., on any poster, etc., having reference to an election, is liable to the above fine of £100; he may appeal against his conviction (M.E.C.I.P.A. s. 30; C.I.P.P.A. s. 54, sub. 2), but is without any remedy under M.E.C.I.P.A. s. 20, (*ex parte De Wette*, 5 Times L. R. 173); and the cases in which relief was granted to a printer, etc. (*ex parte Clark*, 52 L. T. 260; *ex parte Ives*, 5 Times L. R. 136), must now be considered as having been decided *per incuriam*. It will be observed also that the provision applies to any poster, etc., "having reference to an election," and that consequently any such poster, etc., printed, etc., months, or even years, before or after the election, may be held to fall within the provision; though, on the other hand, it is not clear whether "election" is not to be construed, as elsewhere in the Act, as referring to a then impending or current election, and not to one not imminent, or past and gone. As to what is evidence of "printing or causing to be printed," see *Bettesworth v. Allingham*, 16 Q. B. D. 44.

Bills, placards, and posters may be exhibited and posted in the usual places in the constituency, or upon or in any shop, window, wall, or place which the owner consents to be so used. But payment must not be made to, nor must any contract for payment be entered

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—
Name, etc., of
printer, etc.,
must appear
on bills, etc.

Payment for
exhibiting
bills, etc.

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into with, an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice, unless such elector be an advertising agent, and the payment to, or contract with him, be made in his ordinary course of business (M.E.C.I.P.A. s. 4, subs. 1, 3). Any payment or contract for payment made, either out of the ordinary course of business, or with an elector who is not an advertising agent, for exhibiting bills, etc., whether on his own or any other person's house, hoarding, or premises, or by himself or his servants, is an illegal practice (*ib.* sub. 2); and if an agent of the candidate is guilty of such illegal practice, the election may be avoided (*ib.* s. 8, sub. 2). Shop-keepers, being electors, cannot therefore be paid for the exhibition of bills or notices. Non-electors may be paid for exhibiting bills, etc., but such payments must not be "colourable," or excessive, or made with the intention of influencing the votes of electors, in any of which cases it would probably be bribery (see *Westminster*, 1 O'M. & H. 90; as to what is "colourable," see Election Agent, p. 324).

"Sandwich-men" and bill distributors.

The hiring of "sandwich-men" and bill distributors for the exhibition and distribution of addresses, bills or notices, is legal (see per Field, J., in *Stepney*, 4 O'M. & H. 54), but advantage must not be taken of this permission to employ for these purposes additional paid clerks or messengers beyond the authorized number, or the candidate may find that he has committed an illegal practice (M.E.C.I.P.A. s. 13, sub. 1; s. 17, sub. 2). The proper course appears to be to entrust these duties to an advertising agent or contractor, or master bill distributor. It would seem also that, so far as regards the "advertising," though not apparently so far as regards the "distributing," addresses and notices, the persons so employed, if electors, must pursue this calling as their regular, not occasional, means of livelihood, and the contracts with them must be made in the ordinary course of business (*ib.* s. 4, sub. 3).

What is an "address, bill, or notice," and a "bill, placard, or poster."

It will be observed that there is a difference in the phraseology of the above provisions. In the earlier section of the Act (M.E.C.I.P.A. s. 4, sub. 1 (*b*)) the words are "address, bill, or notice"; while in the later section dealing with this subject (s. 14), the words are "bill, placard or poster." The word "bill" appears to be the

largest word in either of these phrases; the words "placard or poster" refer rather to a particular kind of "bill," viz., one capable of being placarded or posted; and it seems probable that the legislature intended the phrase "address, bill or notice," to include "bill, placard or poster" (see *Barrow-in-Furness*, 4 O'M. & H. 76). Accordingly, it has been held that a document, being a copy of a letter from a leading statesman, and another document giving reasons why a particular class of voters should vote for a particular candidate, might be lawfully printed, advertised, and distributed, as they fell within the words "address, bill or notice," although it was urged that these documents were not "addresses or notices" because they were not *addressed* in terms to any person, and did not *notify* that anything was to happen, or be done (*Barrow-in-Furness*, 4 O'M. & H. 77). On the other hand, it has been held that an election handbill urging electors to vote for a particular candidate, and a voter's polling card containing a copy of the ballot paper, and instructions as to marking same, are not "addresses or notices" (*Stepney*, per Denman, J., 4 O'M. & H. 52; *contra*, Field, J., *ib.* 54). A printed letter inviting voters to vote for a particular candidate, left at a voter's residence, and a similar bill posted about the constituency, have been held by justices to be "bills, placards or posters," but this decision was not confirmed by the court (*Bettesworth v. Allingham*, 16 Q. B. D. 44); and it has since been held that circulars printed on paper of note-paper size, to be sent by post or hand, are not "bills, placards or posters" (*Barstow Division of Essex*, 5 Times L. R. 159; *Shrewsbury*, *ib.* 160; *East Suffolk*, *ib.* 170; *Knutsford Division of Cheshire*, *ib.* 170).

If expense is no object, the address of the candidate should be most extensively advertised and circulated. It should be sent to every elector, advertised in every local paper (at an agreed price), and posted on all usual places throughout the constituency. Shopkeepers and innkeepers should also be requested to exhibit it gratuitously in their windows. Notices of election meetings should similarly be advertised, circulated, and posted; and so also should all other notices of importance or interest to the candidate or electors.

What documents may usefully be advertised.

Arrangements can be made with the post-office to return all undelivered circulars, addresses, etc., direct to the candidate, or to some specified committee room, and

Return of undelivered circulars.

CHAP. X.

Gratuitous
circulation of
newspapers.

in this manner changes of address, not previously discovered, may be ascertained.

The gratuitous and *bonâ fide* circulation of waste copies of a newspaper, free of expense to the candidate, has been held to be, though suspicious, not an illegal practice; but, at the same time, one of the judges (Cave, J.) advised candidates to take advice before resorting to such a practice in future (*Norwich*, 27 March, 1886: Print. Minn. pp. 67, 78). A newspaper, started to favour the views of a particular candidate or party, which is not distributed gratuitously, but sold in the ordinary course, and which is dropped soon after the election is over, has been held not to be an election expense (*Kennington*, 4 O'M. & H. 94).

And of general political literature.

There appears to be nothing illegal or improper in a political club, society, association, or private individual distributing general political literature at an election, provided such literature deals with the views of a political party generally, and is not directed to the promotion of the election of any particular candidate. But unless the candidate is willing that the club, etc., or private individual, should become an agent for whose acts he may be rendered responsible, he and his agents must not aid in such distribution, nor accept the gift of any such literature however general it may be, nor adopt the distribution, and he and they should also take such steps as may seem desirable to prevent the club, etc., from being held to be such an agent.

D.—CONVEYANCE OF VOTERS TO THE POLL.

STATUTORY
ENACT-
MENTS.

The M.E.C.I.P.A., as adapted by the G.O., R.O. and U.O., is applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3.

Illegal hiring.

It is an illegal hiring to

1. *Let or hire,*
2. *Lend or borrow,*
3. *Employ or use,*

for the purpose of the conveyance of electors to or from the poll, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which a person keeps or uses for the purpose of letting out for hire (M.E.C.I.P.A. s. 10, subs. 1, 2). The offence of

illegal hiring becomes an illegal practice when committed by the candidate or with his knowledge or consent (*ib.* s. 17, sub. 2). But a person who hires, borrows, or uses, for the purpose of the conveyance of electors to or from the poll, a prohibited carriage, horse, or other animal, is not guilty of an illegal hiring, unless he knows that its owner is prohibited by the statute from letting, lending, or employing the same for that purpose (*ib.* s. 10, sub. 2; and see *Buckrose*, 4 O'M. & H. 117).

It is also an illegal practice to *pay* or *contract to pay*, and knowingly to *receive payment*, or *be party to any contract for payment*, for the conveyance of electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares or otherwise (M.E.C.I.P.A. s. 4, subs. 1 (a), 2); and if the offender be an agent of the candidate, the election may be avoided (*ib.* s. 8, sub. 2). It is thus an illegal practice to pay, or receive payment, or to contract for payment, for the conveyance of voters to or from the poll, whether by horses or carriages, railway fares or passes, ferry or other boats, steamers, sailing ships, or "otherwise." "Payment" includes pecuniary reward, valuable security, or consideration (M.E.C.I.P.A. s. 34; C.I.P.P.A. s. 64), and thus includes refreshment (*Barrow-in-Furness*, 4 O'M. & H. 78).

The difference between the two sections of the M.E.C.I.P.A. (s. 10, subs. 1, 2, and s. 4, sub. 1 a) is one of substance (*East Manchester*, 4 O'M. & H. 121). Under the latter section (s. 4), a payment or contract for payment for the conveyance of electors to or from the poll, is an illegal practice by whomsoever committed, while under the former (s. 10) a letting or hiring for such conveyance of electors is an illegal payment merely, unless the offender be the candidate or his agent; and this difference naturally invites all parties concerned to endeavour to bring any particular case of conveyance of electors within the section (s. 10), which carries with it the lesser punishment and does not avoid the seat. The earlier section (s. 4) is more general in its terms than the later section (s. 10), and, therefore, in accordance with the rule that where a general intention is expressed, incompatible with a particular intention also expressed, the particular intention is to be considered in the nature of an exception (*Churchill v. Crease*, 5 Bing. 180; and

Illegal practice.

Difference between the two sections and offences.

CHAP. X.

see *Pretty v. Solly*, 26 Beav. 610), and with the further rule that an earlier gives way to a later passage (Maxwell, 46), any case that falls within s. 10 must, it is submitted, be considered as excepted from s. 4. It may possibly be held that the penalties under the two sections are cumulative, but the better construction seems to be that the later section of the Act (s. 10) qualifies the earlier, and takes the persons therein specifically dealt with out of the general words of the earlier section (s. 4). The word "hiring" does not, it seems, involve of itself by necessary implication a contract for payment (*East Manchester*, 4 O'M. & H. 121).

Voters may
be conveyed
in borrowed
conveyances.

There is nothing to prevent the conveyance of voters to or from the poll in carriages, steam vessels, ships, barges or boats, or on horses or other animals, lent gratuitously for the purpose, provided that the same be not kept or used for the purpose of letting out on hire (M.E.C.I.P.A. s. 10, subs. 1, 2, *ante*, p. 232). Nor is the employment of the driver, captain, or person in charge of the borrowed carriage, vessel, etc., an employment contrary to the Act, if their payment or remuneration is made by their respective owners, and not by the candidate or any agent of his.

The lending must be perfectly *bonâ fide*, and not upon any understanding, expressed or implied, that the lender is to receive any reward, valuable security, or payment. Under no pretence must any payment, gift, offer, or promise, either in money or kind, be made by or on behalf of the candidate to the coachman or driver, nor must any person be hired or paid to drive a borrowed vehicle.

The object for which a horse, carriage, etc., is kept in non-election times seems to govern its loan and use in election times; and the prohibition appears to be directed against the employment of vehicles, etc., ordinarily hired for the conveyance of *passengers*, rather than of goods or merchandise. A livery-stable keeper cannot lend a single carriage or horse, nor can he use his own carriage or horse to convey his own friends to or from the poll. A carriage or horse which a person keeps and generally uses for his own trade or pleasure, but which he sometimes lets out for hire, may probably be lent and used, and so also a carriage or horse hired on job and not for the occasion. Farmers, tradesmen,

and others may safely lend or use the carts, traps, waggons, horses, etc., which they keep for the purposes of their trade, even though they may, on the poll day, hire other vehicles to replace those so lent or used; but any cart, trap, horse, etc., which is kept for the express purpose of being let out for hire, although the owner occasionally uses it for his own purposes, is clearly prohibited. A country carrier's cart, not used for the conveyance of passengers, and a spring van or cart intended and used for the conveyance of goods or removal of furniture, and only occasionally used for the conveyance of pleasure parties, may perhaps also be lent or used.

There is no enactment permitting payment for the conveyance of voters whose residences are separated from their polling-place by the sea or a branch or arm thereof, as there is in parliamentary county elections (C.I.P.P.A. s. 48).

A person is not liable to licence duty under 32 & 33 Vict. c. 14, or 35 & 36 Vict. c. 20, by reason only of his carriage being used, without payment or promise of payment, for the conveyance of voters to or from the poll (M.E.C.I.P.A. s. 10, sub. 4). Exemption from licence duty.

The M.E.C.I.P.A. expressly permits a carriage, horse, or other animal being let to, or hired, employed, or used by an elector, or by several electors at their joint cost, for the purpose of being conveyed to or from the poll (M.E.C.I.P.A. s. 10, sub. 3). Electors may pay for their own conveyance. An elector may therefore pay for his own conveyance in a public stage or hackney carriage (a coach, omnibus, or cab), or on horseback, or by railway, to or from the poll, and so may several electors at their several or joint cost, though it does not appear that he or they are expressly authorized to hire a boat, or any sea or river-going craft for the same purpose. There is no definition of the term "joint cost," and if two electors hire and proceed to or from the poll in a hackney carriage, and one of them only pays the whole fare, it would seem that the two electors, and also the owner of the carriage, if he knew of the purpose for which it was hired (see *Buckrose*, 4 O'M. & H. 117), are each and all guilty of an illegal hiring. If each contribute something, but one pay the substantial part of the whole fare, they are probably each similarly guilty. But if one elector *bonâ fide* hire a hackney carriage to convey himself to or from the poll, and on his way pick

CHAP. X.

up another elector and give him a seat in the carriage, without requiring him to pay his share of the cost, it seems doubtful whether either the elector or the owner of the carriage be guilty of an illegal hiring, as the carriage was originally lawfully hired, and the case does not fall within the words of the prohibition.

Relief for
inadvertent
offence.

Relief in respect of any offence against the above statutory provisions will apparently not be granted, unless under very special circumstances (*Chelsea*, 2 Times L. R. 374; and see *post*, p. 335).

Prohibited
voters should
not be
brought up.

Great care must be taken not to bring up any voter who is prohibited by law from voting. Any person who is prohibited by statute from voting is not entitled to vote (L.G.A. s. 44, sub. 1); and any person who brings up any person, knowing that such person is prohibited by statute from voting, and who thereby induces or procures such person to vote, is guilty of an illegal practice (M.E.C.I.P.A. s. 6, sub. 1; and see *Stepney*, 4 O'M. & H. 178). The person who votes, knowing that he is prohibited, is similarly guilty (M.E.C.I.P.A. s. 6, sub. 1); and if in thus voting he applies for a ballot paper in the name of some other person, whether that name be the name of a person living or dead, or of a fictitious person, he is also guilty of personation (B.A. s. 24). As to who are prohibited from voting, see Chap. III., *ante*, p. 68).

Fetchers
cannot be
paid.

Persons (other than the paid clerks and messengers) who fetch voters to the poll cannot be paid (see M.E.C.I.P.A. s. 13, sub. 1); nor, as refreshment is equivalent to payment (*Barrow-in-Furness*, 4 O'M. & H. 78), can they be remunerated or paid for their services with food or drink.

CHAPTER XI.

CHAP. XI.

THE POLL.

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I.—BEFORE THE OPENING OF THE POLL.

The B.A., as adapted by the G.O., R.O. and U.O., is applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3. The provisions of the B.A. have in many cases been materially altered by the above-named orders from those which appear in the B.A. itself, and are consequently cited not from the Act, but from the schedules to G.O. r. 25; R.O. r. 24; and U.O. r. 25.

The presiding officer should be at his polling station *at least half an hour before the opening of the poll*. He should see that his poll clerks are in attendance at the polling station, and that they are posted to their appointed posts in good time before the opening of the poll. If he is a prudent and zealous officer, he has, before the poll day, satisfied himself that each of his poll clerks is conversant with the duties which he, the presiding officer, proposes to assign to such clerk, and that there will be no necessity to explain or instruct him as to such duties after the poll has once been opened.

The presiding officer should also see that the directions for the guidance of voters in voting (form, see *ante*, p. 176) are placarded outside every polling station and in every compartment of every polling station (B.A. sch. II., note at the head of the directions), and, so far as he can, that they are not defaced or removed during the poll.

The presiding officer should notice that in addition to the above directions for the guidance of voters in voting, each compartment in his polling station is furnished with a blacklead pencil for marking the ballot-papers; and, so far as he can, he should see that these pencils are kept sufficiently pointed for use throughout the polling hours.

The presiding officer should also see that the constables on duty at the polling station, and who are subject to his orders throughout the poll, are at their

AT THE
STATION
BEFORE
OPENING
THE POLL.

Arrival of the
presiding
officer and
poll clerks.

Attendance
and posting of
constables.

appointed posts before the opening of the poll. As to their duties, see *ante*, p. 166.

The key of the ballot box should be handed to the presiding officer on the evening before the poll, or at the polling station on the day of the poll and in good time before the opening of the poll. The presiding officer should open the ballot box, see that it is in good working order, place it in its proper position, and take out and arrange its contents in convenient positions in the polling station, so as to be at hand and available without loss of time throughout the poll. These contents are specified, *ante*, p. 182.

The candidates' polling agents may be admitted to the polling station shortly before the opening of the poll, but only on each producing to the presiding officer his appointment as polling agent duly signed by the candidate, and with the declaration of secrecy attached, duly signed by such polling agent, and subscribed by the justice of the peace or returning officer taking the declaration.

ARRIVAL OF
CANDIDATES'
POLLING
AGENTS.

No candidate's polling agent should be allowed to be changed during the polling. Any agent wishing to retire and return should first apply to the presiding officer for permission to do so, and, if granted, should receive from him a card of re-admission, filled up and signed by the presiding officer, on delivery up of which he may be re-admitted to the station. The presiding officer must be careful only to allow the *same agent* to re-enter the station, he should require each polling agent to remain in his allotted seat, he should not allow any polling agent to hold any secret communication with any voter or person, he may, it is submitted, prevent any polling agent from taking his marked register out of the polling station before the poll has closed ; and for a breach or disregard of any lawful order, the presiding officer (but not the poll clerk) may order the polling agent to be removed from the station (see *post*, p. 256.)

Their govern-
ment and
conduct.

The card of re-admission to the polling station may be in the following form :—

Card of re-
admission to
station.

Union.
Parish of [or Ward of the Parish of or United
Parishes of .]
Election of Guardians and District Councillors, December, 1894.
Please re-admit Mr. to station No. in polling district
No. .
(Signed) S. T.
Presiding Officer.

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II.—THE POLL.

OPENING
THE POLL.

The opening of the poll must not be delayed after the hour at which it opens by reason of the absence of the presiding officer or his poll clerk; but must be commenced and proceeded with by the one in attendance, and the fact of the absence should at once be notified to the returning officer, so that a substitute may, as soon as possible, be provided.

Showing the
empty ballot
box,

Just before the commencement of the poll, the presiding officer shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed (B. A. r. 23) during the continuance of the poll. Once sealed, the ballot box must on no account be again opened during the poll; nor during the poll must it be taken out of the station for any purpose whatever. An elector who is too infirm to get into the polling station, is not entitled to have the ballot box brought to the door of the polling station to enable him to vote.

ARRIVAL OF
VOTERS.

At what
station to vote.

Having arrived at the polling place, an elector, whose name is in the register of parochial electors and who is not prohibited from voting by statute, may enter the polling station to vote (L.G.A. s. 44, sub. 1). No person shall be admitted to vote at any polling station except the one allotted to him (B. A. r. 18); except that a police constable who, on the day of election is, or is likely to be, sent or employed in the discharge of his duty so as to prevent him voting at the polling station at which he would otherwise be entitled by law to vote, shall, on the production and delivery up to the presiding officer of any polling station of the proper certificate of his chief constable, be allowed to vote at that station (50 & 51 Vict. c. 9, s. 2, subs. 1, 2; as to who is a "constable," and a "chief constable," see sub. 4). Such certificate shall be forthwith cancelled by the presiding officer (*ib.*), but must not be destroyed, as, at the close of the poll, it has to be dealt with in the same manner as the counterfoils of ballot papers (see No. 4, *post*, p. 261). This enactment merely supersedes the prohibition in B.A. r. 18; it does not dispense with any

other provision of the B.A., and the constable's number must therefore be entered on the counterfoil and a mark placed against his number in the register, as in the case of any ordinary voter. CHAP. XI.
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If the parish, or urban district, is divided into wards, In wards. an elector shall not be permitted to vote in more than one ward (G. O. r. 31, par. 2 ; R. O. r. 31, par. 2 ; U. O. r. 29, par. 2 ; L.G.A. s. 48, sub. 2 (ii.), (iii.), and see *ante*, p. 71).

If the parish, or urban district, or ward of the parish, In polling districts. or urban district, is divided into polling districts, each elector shall give his vote in the polling district in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one polling district, he may vote in any one, but in one only, of the polling districts in which it is situate (G. O. r. 14, par. 2 ; R. O. r. 13, par. 2 ; U. O. r. 13, par. 2).

The above prohibition against voting at any other Voting at wrong station. than the voter's allotted station has been argued to be directory merely and not prohibitory ; and it has been held that if the voter is admitted to vote at the wrong polling station he does not thereby lose his vote (*Middlesex*, 2 Peck. 57 ; *acc. Cambridge*, W. & D. 55 ; *Male*, 144). But, in a subsequent case, a vote given at the wrong polling station was struck off, on the ground that although the presiding officer should have refused the vote, and directed the voter to go to the proper station, yet that it was the fault of the voter as well as of the presiding officer (*Oldham*, 1 O'M. & H. 165).

The presiding officer must satisfy himself that the elector presenting himself to vote is on the register (L.G.A. s. 44, sub. 1), and that the station over which he presides is that to which such elector is allotted (B. A. r. 18) ; but he has no authority to inquire into the capacity to vote of any voter on the register who may apply to him for a ballot paper (see *McGowan v. Sedley*, 8 Ir. C. L. R. 342). The register is conclusive on the presiding officer, and he is not entitled to refuse to deliver a ballot paper to an elector whose name is on the register, even though such elector be wrongly on the register, or be prohibited from voting by any statute, or by the common law, and be therefore liable to have his vote cut off on a scrutiny (*Worcester*, 3 O'M. & H. 185 ; *Stowe v. Foliffe*, L. R. 9 C. P. 734, 750). Nor is the presiding officer entitled to refuse to deliver a ballot

Register conclusive on the presiding officer.

CHAP. XI.

—

paper to an elector whose name is erroneously given on the register, if he be satisfied of the identity of the elector applying to vote with the person whose name appears on the register (*R. v. Thwaites*, 1 E. & B. 704; *Sligo*, W. & D. 227; *Taunton*, Falc. & F. 295; *Oldham*, 1 O'M. & H. 152, 153; and see STATUTORY QUESTIONS, *post*, p. 250).

In what cases
ballot papers
shall be
refused.

The presiding officer must refuse to deliver a ballot paper to a person:—

- (1.) Whose name is not on the register of parochial electors assigned to vote at his polling station (unless he be a police constable producing the certificate of his chief constable entitling him to vote at any polling station), or against whose name an asterisk (*) is placed, with the foot note, "Not for voting;"
- (2.) Who refuses to answer the statutory questions, or either of them, or who refuses to take the oath or affirmation, if required to be put or taken (see *post*, pp. 250, 253);
- (3.) Who appears by his answers or oath not to be the same person whose name appears on the register of voters, or who appears to have voted before at the present election;

but must supply them to all other voters. A voter who applies to vote at the wrong polling station should be directed by the presiding officer to the proper station (*Oldham*, 1 O'M. & H. 165).

Lunatics,
drunkards,
and infirm
persons.

If a lunatic, a drunkard, a childish person, a deaf and dumb or infirm man, present himself to vote, the right to vote seems to depend on his capacity *at the moment of voting* to understand what he is about to do. If a lunatic is sufficiently *compos mentis*, a drunkard sufficiently sober, a childish person, or a deaf and dumb or infirm man, of sufficient capacity, by writing or by signs, to show that he understands the purpose for which he has come to the polling station, the presiding officer would certainly not be justified in refusing to allow him to vote (*Heyw. Co.* 260, 261; *Perkins*, s. 25; *Rog.* 120; *Cunn.* 97; *Election Agent*, 354; *Bridgwater*, 1 Peck. 108; *Oakhampton*, 1 *Fraser*, 162). If any candidate's polling agent or parochial elector requires the statutory questions, oath, or affirmation to be put to such voter, the voter must further be able to satisfy the presiding officer that he understands the nature of the statutory questions, the

obligation of an oath, and the temporal dangers of perjury, and must, by the means aforesaid, be able satisfactorily to answer such questions, and to take the oath or affirmation (see *ib.*) Upon these requirements being satisfactorily fulfilled, the voter may receive a ballot paper, but as the question of the competency of the voter is apparently one of fact for the presiding officer to decide at the time, he should carefully satisfy himself of the fact, so as to be able to explain and justify his decision should it thereafter be called in question. The votes of voters who are incapacitated by blindness, or other physical cause, from voting by ballot are marked for them by the presiding officer (see *post*, p. 248).

It is no part of the function of a candidate's polling agent, or of a parochial elector, to interfere with the presiding officer in the acceptance or rejection of votes, or in the delivery of, or refusal to deliver, ballot papers. The time to question the presiding officer's decision in any of these respects is on a scrutiny in an election petition.

The presiding officer makes his own arrangements for dividing the work in the station. In populous districts it is impossible for the presiding officer to do by himself all that is necessary, and in such districts he should, as a general rule, leave his poll clerks to attend to the various practical details, reserving to himself the exercise of a general supervision, and only interfering in cases of any difficulty or disturbance (*Pickering v. James*, L. R. 8 C. P. 489, 499). But where this is impossible, and where the presiding officer is compelled to take a share in the practical details, the best arrangement is for the poll clerk to take charge of the register, and to seat himself on that side of the presiding officer that is nearer the entrance, and for the presiding officer to take charge of the ballot papers and stamping instrument, and for both to proceed as follows:—

The voter, having entered the station, will be directed by the constable to the poll clerk, who will ask the voter his name, and, having ascertained that the voter's name is in the register for the station, will call out the voter's number, name, and description, as stated in the register, and will make a mark (a short horizontal line is the best) in the margin against the voter's name in the register, to show that he has received a ballot paper (see B.A. s. 2, and r. 24). While the poll clerk is doing this, the

Division of
work in the
station.

DELIVERY
OF BALLOT
PAPER TO
VOTER.

CHAP. XI.

—

presiding officer will write on the counterfoil the voter's number on the register, together with the distinguishing mark, if any, of the part of the register in which the number occurs (B.A. s. 2), will detach the ballot paper from the counterfoil, will stamp the ballot paper with the official mark, taking especial care that each ballot paper is stamped separately and distinctly, and that the mark is visible on *both* sides of the ballot paper (want of attention in these respects may render the presiding officer or poll clerk, delivering out the ballot paper, liable to a candidate who thereby loses the election; *Pickering v. James*, L. R. 8 C. P. 489; *Thornbury*, 16 Q. B. D., 752), and also taking care that the ballot paper is not stamped upon or over the space on the right hand side left for the voter's mark, and will then hand the ballot paper to the voter within the polling station (see B.A. s. 2, and r. 24). If there be time, it is convenient to fold each ballot paper in four, lengthwise and crosswise, and to open it again before delivering it to the voter. Care must be taken that one ballot paper only is detached at a time, and that one ballot paper only is given to each voter. No mark of any kind is to be put upon the ballot paper by the presiding officer, or poll clerk, except the official mark, and none upon the counterfoil except the above-named number in the register. The calling out of the voter's number, name, and description is in order that all present may know that the person, being or claiming to be the individual so named, has applied for and is about to receive, a ballot paper, and thus to give facility for proof in case of alleged personation (*Thornbury*, 16 Q. B. D. 739, 748).

Number on
ballot paper.

The candidates and their polling agents have no right to know, and ought not to be allowed to see or learn, the number on the back of a ballot paper delivered to a voter (*Thornbury*, 2 Times L. R. 486). Although the ballot papers are usually numbered and used consecutively, it has been said to be prudent and proper not to use them consecutively in any one polling station (*ib.*).

SECRET
MARKING BY
VOTER.

—

Having received a ballot paper, the voter shall forthwith proceed into one of the compartments in the polling station, and there secretly mark his paper (B.A. s. 2 and r. 25) with the pencil provided in the compartment, by placing a cross (X) on the right hand side of the ballot paper opposite the name of each candidate for whom he votes (B.A. sch. II., directions to voters, *ante*, p. 176).

If the arrangements of the station offer facilities to the voter to show his marked ballot paper to other persons, and he does not in fact avail himself of such facilities, the vote will not be bad, nor the election avoided (*Drogheda*, 2 O'M. & H. 205); but if he does so avail himself, so that he cannot be said to have secretly marked his vote, it would seem that the vote is a bad vote, and that, if a majority of the electors who have gone to the poll have similarly disregarded the provisions of the B.A., the election may be declared to be void (see *Woodward v. Sarsons*, L. R. 10 C. P. 733). A voter who deliberately marks his ballot paper openly instead of secretly, violates B.A. s. 2, and rr. 25, 28, and in a provision that is mandatory upon himself; and if this be done in view of the presiding officer, it is submitted that the latter should refuse to admit the ballot paper into the ballot box (see *Thornbury*, 16 Q. B. D. 739; *Pickering v. James*, L. R. 8 C. P. 489), and that unless the voter can satisfy the presiding officer that he has so inadvertently marked his ballot paper as that it has become a spoilt ballot paper within B.A. r. 28, the presiding officer should refuse to give the voter a second ballot paper. The only case in which a presiding officer is empowered to deliver a second ballot paper to the same voter, is where the first ballot paper has become a spoilt ballot paper.

The regulations as to how to mark the vote should be observed. The vote is, however, not necessarily invalid if the mark be made with an instrument other than a pencil; nor if the mark be a mark other than a cross; nor if the mark be not made on the right hand side, or precisely in the space left for the mark (see *post*, p. 281), but there must be a mark clearly indicating the candidate for whom the voter wishes and intends to vote (*Cirencester*, 4 O'M. & H. 196). If the voter write or mark upon the ballot paper anything by which he can be identified (B.A. s. 2; *Woodward v. Sarsons*, L. R. 10 C. P. 733); or if he so mark his ballot paper as that it is void for uncertainty, it will not be counted (B.A. r. 36).

The voter may give one vote and no more for each of any number of persons not exceeding the number to be elected (L.G.A. s. 20, sub. 4; s. 23, sub. 4; s. 24, sub. 4); but if he mark his ballot paper with votes for more candidates than he is entitled to vote for, his ballot paper will be void, and not counted (B.A. s. 2). The

How to be
marked.

For how
many to vote.

CHAP. XI. — second vote of a person who votes twice at the same election is bad, and will be struck off on a scrutiny (*Stirlingshire*, Falc. & F. 541); and so also if a voter, who is entered twice in the register under different names, vote twice (*Oldham*, 1 O'M. & H. 156); he may also be guilty of personation (B.A. s. 24). In a parish, or urban district, divided into wards, a voter shall not be permitted to vote in more than one ward (see *ante*, p. 71); if, nevertheless, he does vote in more than one ward, the second vote is bad in any case, but the first vote is good, unless given under such circumstances as to render the voter guilty of personation (see *Stepney*, 4 O'M. & H. 43; *acc. St. Andrews*, *ib.* 32). A voter cannot vote for one candidate, and then vote a second time for another candidate, though having two votes (*Bridgwater*, 1 Peck. 109; *acc. Bedford*, Falc. & F. 438; *Bath*, W. & D. 146; and see the second statutory question and the oath and affirmation, *post*, pp. 250, 253). A police constable cannot vote more than once, under penalty of personation (50 & 51 Vict. c. 9, s. 2, sub. 3). As to when voting twice amounts in other cases to personation, see Election Agent, p. 434.

Folding up and deposit in ballot box. Having thus secretly marked his ballot paper, the voter shall fold it up so as to conceal his vote, but so as to show the official mark on the back, and, leaving the compartment, shall, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, shall put his ballot paper, so folded up, into the ballot box (B.A. s. 2, and r. 25); he shall vote without undue delay, and shall quit the polling station as soon as he has put his paper into the ballot box (B.A. r. 25). The presiding officer, or the clerk deputed by him, is bound to look at the ballot paper, and to see that the official mark is on its back before the voter puts it into the box (*Pickering v. James*, L. R. 8 C. P. 489; *Thornbury*, 16 Q. B. D. 752); and, if he then sees that inadvertently a ballot paper has been delivered out without the official mark, he can at once rectify the inadvertence by informing the voter of the omission, cancelling the unstamped paper (being first satisfied that it is, in fact, the genuine paper delivered out to the voter), and by delivering out to him another paper, duly stamped, upon which he may effectually record his vote (*Thornbury*, 16 Q. B. D. 759). What course the presiding officer

should take, if the voter insists on putting into the ballot box a ballot paper which the presiding officer thinks is void for want of the official mark, is an unsettled question; it may be, that though irregular, the presiding officer is bound to admit it, leaving it to the returning officer on the counting of the votes to decide whether it ought to be rejected (*ib.*); and it may be that the presiding officer should prevent it from being put into the ballot box (see *S. C.*, 2 Times L. R. 488); until the point is settled, the former seems to be the more prudent course for the presiding officer to take. If instead of placing in the ballot box the ballot paper "folded up so as to conceal his vote," the voter, after he has left the compartment, exhibits his marked ballot paper, or attempts to place it unfolded into the ballot box, the presiding officer may, it is submitted, refuse to admit the ballot paper to the ballot box, as in the case of a voter who marks his ballot paper openly instead of secretly (see *ante*, p. 245).

The presiding officer should not allow any undue delay in voting to take place, and if the voter does not quit the polling station as soon as he has put his ballot paper into the ballot box (B.A. r. 25), he may, after being ordered to leave by the presiding officer, be removed by order of the presiding officer (*ib.* s. 9), but not of a poll clerk (*ib.* r. 50).

No delay is permissible.

A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering that ballot paper to, and proving the fact of the inadvertence to the satisfaction of, the presiding officer, obtain another ballot paper, and the spoilt ballot paper shall be immediately cancelled (B.A. r. 28), but must not be destroyed, as it has to be made up into a packet with the unused ballot papers, and delivered to the returning officer (B.A. r. 29, sub. 2; and see No. 2, *post*, p. 261).

Spoilt ballot paper.

If the voter inadvertently mark the ballot paper wrongly, *i.e.*, if intending to mark it for A. he mark it for B., he may treat his ballot paper as a spoilt ballot paper, and apply to the presiding officer for another. This he must, of course, do before he has deposited the ballot paper in the ballot box, for until then, but not afterwards, he is entitled to correct his mistake (*Stirlingshire*, Falc. & F. 542); and compare *Taunton*, *ib.* 299; *Monmouth*, K. & O. 413). In such circumstances he is

CHAP. XI. not to be directed to vote upon a tendered ballot paper, as the case does not fall within the words or meaning of the rule relating to tendered ballot papers (B.A. r. 27, see *post*, p. 253).

Blind, Jewish,
and illiterate
voters.

If the voter—

(1.) Is incapacitated, by blindness or other physical cause, from voting in manner prescribed by the Act ; or,

(2.) Verbally declares (if the poll be taken on a Saturday) that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by the Act ; or,

(3.) Makes a declaration that he is unable to read ; the presiding officer shall, on the application of the voter, and in the presence of the agents of the candidates (B.A. r. 26), or such of them as are in attendance (*ib.* r. 55), but apparently excluding the constables, and certainly all other voters, they not being under the declaration of secrecy, cause the voter's ballot paper to be marked as directed by him, and placed in the ballot box (*ib.* r. 26). Before marking a vote in any of the three above cases, the presiding officer must take due steps to secure secrecy ; he must either clear the station, or take such other steps as he may deem requisite to prevent any other voter, and any constable, from knowing how and for whom the vote is given. It seems that, when the poll is taken on a Saturday, a Jew who is unable to read, may, on making the above-mentioned verbal declaration of his religious disbelief, vote without also making the declaration of inability to read, because on that day his ballot paper may be marked for him by the presiding officer ; but that he must make the latter declaration when the poll is taken on any other day of the week. The declaration of inability to read must be read to the voter by the presiding officer, and must be signed by the voter with his mark, in the presence of the presiding officer, who must sign the certificate at the foot of such declaration (see the form, *infra*). These declarations must not be placed in the ballot box (*Woodward v. Sarsons*, L. R. 10 C. P. 733), but must, after the close of the poll, be made up into a packet with certain other documents (B.A. r. 29, sub. 5 ; see No. 5, *post*, p. 261). The name and number of every voter whose vote is so marked, and the reason, shall be entered on " The list of votes marked by the presiding officer " (*ib.* r. 26).

The form of declaration of inability to read is given in B.A. sch. II., and is as follows:—

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I, *A. B.*, of _____, being numbered _____ on the register of parochial electors for the parish of _____ do hereby declare that I am unable to read. Declaration of inability to read. *A. B.*, his mark.

The _____ day of December, 1824.

I, the undersigned, being the presiding officer for the _____ polling station for the parish of _____ [or united parishes of _____ or _____ ward of the parish of _____], do hereby certify, that the above declaration, having been first read to the above-named *A. B.*, was signed by him in my presence with his mark.

(Signed) *C. D.*,
Presiding officer for _____ polling station
for the parish of _____ [or united
parishes of _____ or _____ ward of the
parish of _____.]

The _____ day of December, 1894.

In an election of urban district councillors, the last clause of this declaration shall be as follows:—

I, the undersigned, being the presiding officer for the _____ polling station for the urban district of _____ [or _____ ward of the urban district of _____], do hereby certify, that the above declaration, having been first read to the above-named *A. B.*, was signed by him in my presence with his mark.

(Signed) *C. D.*,
Presiding officer for _____ polling station
for the urban district of _____ [or
ward of the urban district of _____.]

The _____ day of December, 1894.

The following is a form of the list of votes marked by the presiding officer:—

List of votes marked by presiding officer.

Union of _____
Parish of _____ [or _____ ward of the parish of _____ or united
parishes of _____.]

Election of Guardians and District Councillors, December, 1894.

Polling District, No. _____.

Polling Station, No. _____.

LIST OF VOTES MARKED BY THE PRESIDING OFFICER.

Number on the Register.	Name of Voter.	Reason why the Vote was so marked.		
		Blindness or other Physical incapacity (state what.)	Jews.	Unable to read.

(Signed) *S. T.*
Presiding Officer.

CHAP. XI.

STATUTORY
QUESTIONS.

The column for Jews in the above form may be omitted if the poll take place on any day other than a Saturday.

The presiding officer may, and if required by any parochial elector of the parish or any polling agent, shall, put to any elector at the time of his applying for a ballot paper, but not afterwards, the following questions, or one of them, and no other :—

(a.) Are you the person entered in the parochial register for this parish [*or ward*] as follows [*read the whole entry from the register*]?

(b.) Have you already voted at the present election of guardians [*or rural district councillors*] in this or any other parish or ward in the union [*or rural district of*] ?

(G.O. r. 20, par. 1 ; R.O. r. 19, par. 1).

In the case of a parish united with any other parish for the election of guardians or rural district councillors, the questions shall be as follows :—

(a.) Are you the person entered in the parochial register for one of the united parishes, viz., the parish of , as follows [*read the whole entry from the register*]?

(b.) Have you already voted at the present election of guardians [*or rural district councillors*] in either of the united parishes of and , or in any other parish or ward in the union [*or rural district of*] ?

(G.O. r. 32, par. 2 ; R.O. r. 31, par. 2).

In an election of urban district councillors the questions shall be as follows :—

(a.) Are you the person entered in the parochial register for the parish of [*or for the ward*] as follows [*read the whole entry from the register*]?

(b.) Have you already voted at the present election of urban district councillors for the urban district of [in this or any other ward] ?

(U.O. r. 19, par. 1).

Meaning of
the questions.

The first of the above two questions is as to the identity of the *person* and not as to the identity of *name*. The inquiry is not whether the voter's name is A. B., but whether he is the *person* whose name (whatever that may be) is entered as A. B. He is not asked whether the name on the register is his real name, but whether

he is the person whose name appears in the register. The person actually registered may therefore safely answer this question, although his name is incorrectly stated in the register (*R. v. Thwaites*, 1 E. & B. 704; *Sligo*, W. & D. 227; *Taunton*, Falc. & F. 295; *Oldham*, 1 O'M. & H. 152, 153); or although it be a totally different name from the real name of the voter, provided it was intended by that name to designate the voter and no one else; and in such a case the voter may apply for a ballot paper, and may answer the questions (see the first question), and vote in the name by which he appears on the register (*R. v. Fox*, 16 Cox C. C. 166, 168). Therefore, a ballot paper must not be refused on account of any mere misnomer or inaccurate description in the register, if the presiding officer be satisfied of the identity of the person applying to vote with the person whose name appears in the register.

The above questions must be asked in the very words of the rule (2nd *Canterbury*, K. & O. 326); they should be calmly and deliberately proposed, and the presiding officer should take care that the voter, in making his reply to the questions, is protected from interruption or interference. The presiding officer may put the questions of his own motion, and without the demand of a parochial elector or candidates' polling agent (see *R. v. Spalding*, Car. and Marsh. 568).

How and when to be put.

If the above questions are satisfactorily answered by the voter, the presiding officer cannot refuse to allow the voter to vote; and if he do refuse, he may render himself liable to a criminal prosecution for the breach of a public duty, even though he knew that the voter has answered falsely (*Pryce v. Belcher*, 4 C. B. 866); he must leave it to the candidates and their agents to take notice of the false answers, and to apply to strike off the vote on a scrutiny. The presiding officer is no judge of the falsehood, and must allow a voter who has answered the questions to vote, even though he knows or believes that the voter's answers are false.

Satisfactory answers.

False answers.

If the answers are qualified or are unsatisfactory, the presiding officer should endeavour to get from the voter a definite answer before giving him, or refusing to give him, a ballot paper. But if the questions are substantially, though not categorically, answered, the voter should, it seems, be allowed to vote. At a parliamentary election a voter answered to the third question as to

Unsatisfactory answers.

CHAP. XI.

qualification (allowed by 2 & 3 Will. IV. c. 45, s. 58, but now repealed by 6 & 7 Vict. c. 18, s. 80) that "he had land at S. and always had"; the deputy returning officer rejected the vote, on his principle of rejecting the votes of all persons who did not reply "Yes" or "No," and the committee held that the officer was wrong, and put the vote upon the poll (*Monmouth*, K. & O. 414). In a similar election, a voter to the same question answered, "I should say yes," and the committee decided that the voter ought to have been allowed to vote (*New Sarum*, P. & K. 255). If the voter is rejected for not properly answering the questions, and again tenders himself and offers to answer the questions, he should not be refused by the presiding officer, but should be permitted to vote (*Taunton*, Falc. & F. 305); and thus it will be observed that the refusal to answer the questions at one period of the day does not act as a disqualification at another.

Refusal to
answer.

If the voter decline to answer, or abstains from answering, the question or questions which he has been required to answer, he shall not receive a ballot paper, or be permitted to vote (G.O. r. 20, par. 2; R.O. r. 19, par. 2; U.O. r. 19, par. 2). And if by his answers he makes it appear to the presiding officer that he is not the person entered in the parochial register, or that he has already voted at the election, the presiding officer should refuse to give him a ballot paper (see *ib.* par. 1). The inability of an idiot, lunatic, childish person, or drunkard to answer the questions, may be treated as a refusal within the above rule; but a deaf or dumb, or infirm man, if he can by writing or signs make himself understood, is not to be treated as unable or refusing to answer the questions (see *ante*, p. 242).

No other
question
permissible.

No question or inquiry as to the right of any person to vote other than the above two questions can be put (see G.O. r. 20, par. 1; R.O. r. 19, par. 1; U.O. r. 19, par. 1); nor are any other dealings with, or inquiries of, the voter permissible. The voter must not be asked, for example, to spell his name, nor must he be refused a ballot paper if there be any variance between his spelling of his own name and that on the register (*Canterbury*, K. & O. 134). So, also, an inquiry as to whether the voter votes in respect of an old or a new qualification is illegal (*Bedford*, C. & R. 87; P. & K. 139); and a voter may not be asked if he has been bribed, or whether he has done anything which, if he does vote, will render

him liable to a prosecution (*Worcester*, 3 O'M. & CHAP. XI. H. 187).

If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions above mentioned (*ante*, p. 250), and upon taking the oath undermentioned, which the presiding officer shall administer, receive from the presiding officer a tendered ballot paper, which tendered ballot paper such person shall be entitled to mark in the same manner as any other voter, but which, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the returning officer; and the name of the voter and his number on the register shall be entered on the tendered votes list (B. A. r. 27).

TENDERED
VOTES.

After per
sonation.

The oath shall be administered in the following form:—

Form of oath
and affirma-
tion.

You do swear that you are the same person whose name appears as *A. B.* on the register of parochial electors for the parish of [or ward of the parish of], and that you have not already voted at the present election of guardians [or rural district councillors] in this or any other parish or ward in the union [or rural district].

SO HELP YOU GOD.

A person entitled to affirm in lieu of taking an oath may affirm in the following form:—

I, *A. B.*, do solemnly, sincerely, and truly declare and affirm that I am the same person whose name appears as *A. B.* on the register of parochial electors for the parish of [or ward of the parish of], and that I have not already voted at the present election of guardians [or rural district councillors] in this or any other parish or ward in the unions [or rural district].

(B. A. r. 27).

In an election of urban district councillors the oath and affirmation shall be as follows:—

You do swear that you are the same person whose name appears as *A. B.* on the register of parochial electors for the parish of in this district [or on that part of the register of parochial electors for the parish of as relates to this ward] and that you have not already voted at the present election for this district [add, in case of an election for a ward, in this or any other ward].

SO HELP YOU GOD.

bad (*Buckrose, ib.* 115). If by mistake of the poll clerk, a voter whose register number is 504, receives a ballot paper as number 540, thus compelling the voter whose number is 540 to vote on a tendered ballot paper, both votes will be held good on a scrutiny, as neither voter is to be held disentitled to vote by reason of the clerk's mistake (*Cirencester, 4 ib.* 194).

If the presiding officer wrongfully refuse to deliver a ballot paper to any elector entitled to a ballot paper, such elector should tender his vote, and it may, perhaps, then be added on a scrutiny (*Southampton, P. & K.* 226; *Taunton, Falc. & F.* 305). The question of whether a tender has or has not been sufficiently made, is one of fact to be determined by the evidence in each particular case (*Harwich, 1 Peck.* 396; *New Windsor, K. & O.* 173): the voter must see that the tender is well-made and to the proper officer (*Warrington, 1 O'M. & H.* 45).

The presiding officer shall keep order at his station, he shall regulate the number of electors to be admitted at a time, and shall exclude all unauthorized persons (B. A. r. 21). The returning officer is also bound to take proper measures to secure order (*Coventry, P. & K.* 345; *C. & R.* 289), and may give into custody, forthwith and without a warrant (Male, 122), persons disturbing the proceedings at the poll, and may order them to be taken before the magistrates to be bound over to keep the peace (*Spilsbury v. Micklewaite, 1 Taunt.* 146). Magistrates present or within call, and having jurisdiction, are bound to exert their authority to preserve the peace and freedom of election (Male, 116); and the police and magistrates may also call in the aid of the public or bystanders, for "every man is an officer to see the peace kept whereby a disturbance may be prevented" (Glan. 143).

The only persons whom the presiding officer can admit to the polling station are the poll clerks, the candidates' polling agents (each of whom may be required by the presiding officer to exhibit, but not to deliver up, his appointment, or to give other evidence thereof, and of his identity); the constables on duty; the candidates, provided they do not interfere with the polling or otherwise misconduct themselves (B. A. s. 9; *Clementson v. Mason, L. R. 10 C. P.* 209); and such number of electors as the presiding officer may determine to admit at a time (B. A. r. 21).

CHAP. XI.

Other tendered votes.

KEEPING
ORDER IN
STATION.

Persons entitled to admission.

CHAP. XI.

Ejection of
offenders.

The presiding officer (but not the poll clerk; B. A. r. 50) may order any constable in or near his polling station, or any other person authorized in writing by the returning officer, immediately to remove any person who misconducts himself in the polling station, or who fails to obey the lawful orders of the presiding officer; and the person so removed, even if he be a candidate (*Clementson v. Mason*, L. R. 10 C. P. 209), or a candidates' polling agent (*Bolton*, 2 O'M. & H. 138), shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day (B. A. s. 9). But these powers shall not be exercised so as to prevent any elector, who is otherwise entitled to vote at any polling station, from having an opportunity of voting at such station (*ib.*). If the person so removed is charged with the commission in the polling station of any offence, he may be kept in custody until he can be brought before a justice of the peace (*ib.*). In case of confusion, or the intrusion of too many persons, the presiding officer (but not the poll clerk; B. A. r. 50) may order the polling station to be cleared and order to be restored before proceeding with the poll (see *Worcester*, 3 O'M. & H. 188).

No inter-
ference with
voter.

The presiding officer should take care that no person whosoever interferes with, or attempts to interfere with, a voter when marking his vote, or otherwise attempts to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote, or has voted, and that no person directly or indirectly induces any voter to display his ballot paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote (B.A. s. 4). Every person who acts in contravention of B.A. s. 4 shall be liable, on summary conviction, to imprisonment for six months with or without hard labour (B.A. s. 4; and as to the prosecution for this offence, see Election Agent, p. 475).

The presiding officer must also see that the provisions of B.A. s. 4 (see *ante*, p. 198) as to the maintenance of secrecy are observed, and must remember that those requirements apply to *all* votes given under any circumstances, and whether marked by the presiding officer or by the voter.

Arrest of
personators.

Inasmuch as it is the duty of the returning officer to prosecute any person whom he may believe to have been

guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation (B.A. s. 24 ; as to the prosecution for this offence, see Election Agent, p. 458), the presiding officer (but not the poll clerk ; B.A. r. 50) may order the arrest of any person whom he may reasonably believe, on fair grounds, to have been guilty of such offence in his polling station, and may further order that such person be kept in custody until he can be brought before a justice of the peace (B.A. s. 9). In this case the presiding officer must exercise his own judgment ; when the parochial elector or candidates' polling agent exercises his power of requesting the arrest of a personator, as mentioned *passim*, the presiding officer has merely to see that such elector or agent brings himself within the Act, and he then proceeds as therein enacted.

If at the time any person tenders his vote, or after he has voted, and before he leaves the polling station, any parochial elector or candidates' polling agent shall declare to the presiding officer, that he verily believes, and undertakes to prove, that the said person so voting is not in fact the person in whose name he assumes to vote or to the like effect, then the presiding officer (but not the poll clerk ; B.A. r. 50) shall, immediately after such person shall have voted, by word of mouth, order any constable or other peace officer to take the said person so voting into his custody ; but the presiding officer shall not be entitled to reject the vote of any person who shall answer in the affirmative the statutory questions, and shall take the oath or make the affirmation ; and the presiding officer (or his poll clerk ; B.A. r. 50) shall cause the words " protested against for personation," to be placed against the voter's name in the marked register (6 & 7 Vict. c. 18, s. 86 ; B.A. s. 24). The offender is then taken before two justices, or if one only can be found, before such one, by whom he may be admitted to bail (6 & 7 Vict. c. 18, s. 87 ; B.A. s. 24). On the hearing of the charge, the justices, if satisfied on the evidence of not less than two credible witnesses of the truth of the charge, may commit the offender to trial (6 & 7 Vict. c. 18, s. 88 ; B.A. s. 24) ; or if not so satisfied, or if the parochial elector or polling agent making the charge does not appear, the justices may award compensation to the person charged, to be levied by distress on the goods of the parochial elector or polling agent or

CHAP. XI. his candidate, or by action of debt (6 & 7 Vict. c. 18, s. 89; B.A. s. 24).

Arrest of
offenders
against B. A.
s. 3.

The presiding officer does not seem bound to order the arrest of persons for offences against B.A. s. 3 (forging, counterfeiting, fraudulently defacing, or destroying any ballot paper, or the official mark thereon, supplying any ballot paper to any person without due authority, fraudulently putting into the ballot box any other than the authorized ballot paper, fraudulently taking out of the polling station any ballot paper, without due authority destroying, taking, opening, or interfering with any ballot box, or packet of ballot papers), but he is apparently entitled to order such an arrest, or the detention of an offender, if he see fit, and if the offence is committed in his polling station. So far as he can, he should prevent the commission of any of these offences, and he is clearly entitled to order the removal from the station of any person whom he, on reasonable grounds, suspects to be, or to be about to be, an offender against this provision (B.A. s. 3). An ingenious system whereby B.A. s. 3 was violated, and the way in which voters had voted was ascertained and communicated to the committee rooms, and whereby the polling agents became liable to punishment, will be found in the *Bolton* case (2 O'M. & H. 142).

DEATH OF
CANDIDATE.

Does not
affect the poll.

There is no provision for the case of the death of the candidate after the poll has been opened. The returning officer should therefore take no notice of the death of a candidate after the poll has been opened, but should proceed as if he were alive, and, if elected, should include his name in his declaration of the result of the poll. A casual vacancy will then arise, and a bye-election be held in due course (see *ante*, p. 156).

CLOSING OF
POLL.

No more
ballot papers
to be given
out.

The poll must be kept open until the exact hour (the first stroke of the clock) at which it is to be closed, and this hour is determined by Greenwich mean time, not local time (43 & 44 Vict. c. 9, s. 1). It is not sufficient to close the door of the polling station at such hour, but no ballot papers must be given out, nor must any votes be received, after that hour (*Gribbin v. Kirker*, 7 Ir. R. C. L. 30, and see *Knaresborough*, 2 P. R. & D. 211; *R. v. Islington Churchwardens* of, 26th Oct. 1891), unless from voters who have obtained admission to the polling station and have applied for ballot papers before such hour (*Worcester*, 3 O'M. & H. 189); as to striking off on a scrutiny votes received after the poll has closed,

see Election Agent, p. 360. Once closed the poll cannot be reopened (Glan. 72). As to when an election is avoided by closing the poll at other than the statutory hour, see Election Agent, p. 371.

The view above expressed (viz. that voters who have received ballot papers before the hour at which the poll closes, may be allowed to mark and deposit them in the ballot box after that hour), though sometimes questioned, is, it is submitted, sound, and presents the only practicable course under the circumstances. The application for a ballot paper before the poll has closed is the tender of a vote (see B.A. s. 15), which tender the voter is, it is submitted, entitled to complete in ordinary course by depositing the ballot paper in the ballot box though shortly after the statutory hour, as seems to have been permitted to the three literate voters in the *Worcester* case (3 O'M. & H. 189). The presiding officer cannot refuse to deliver a ballot paper to a voter so applying, nor can he recall a ballot paper once delivered. The voter is not entitled to take his ballot paper out of the polling station (see B.A. ss. 2, 3); the presiding officer has to account to the returning officer for every ballot paper intrusted to him, and the statute does not contemplate his accounting for them except under one of the four heads of ballot papers used, unused, spoilt, or tendered after personation (B.A. r. 30). The allowing of ballot papers issued before the hour at which the poll closes to be deposited in the ballot box shortly after that hour, is, therefore, in the present state of the law, the safest course for the presiding officer to take; and even if this be not strictly legal, it probably would not be held to invalidate the election.

Deposit in box after the hour, of ballot papers obtained before the hour.

III.—AFTER THE CLOSE OF THE POLL.

Upon the poll being closed, the presiding officer should at once clear his station of all persons, except his poll clerks, the candidates, their polling agents, and any constables whom the presiding officer may think it desirable to retain in the station.

Clearing the station.

He will then cover over the opening in and seal up the ballot box, so as to prevent the introduction of additional ballot papers (B. A. s. 2).

Sealing up the ballot box.

He will next fill up and sign the statement of the number of votes marked by the presiding officer and

Filling up statement and account.

CHAP. XI. the ballot paper account. The following is a form of the former document :—

Form of state-
ment.

Union.
Parish of [or ward of the parish of or united
parishes of].
Election of Guardians [and District Councillors], December, 1894.
Polling District, No. .
Polling Station, No. .

STATEMENT OF NUMBER OF VOTES MARKED BY THE
PRESIDING OFFICER.

Physical Incapacity.	Jews.	Unable to Read.

(Signed) S. T.
Presiding Officer.

In this form, the column for Jews must be retained, but if the poll take place on any day other than a Saturday, it will be filled up "None." The number in each column should agree with the totals of each column in the list of votes marked by the presiding officer (see *ante*, p. 249).

Form of
ballot paper
account.

The following is a form of the ballot paper account :—

Union.
Parish of [or ward of the parish of or united
parishes of].
Election of Guardians [and District Councillors], December, 1894.
Polling District, No. .
Polling Station, No. .

Ballot Paper Account.

Number of ballot papers received from returning officer (exclusive of tendered ballot papers)	.	
Number unused	.	.
Number spoilt	.	.
Balance, being the number of USED ballot papers which ought to be in the ballot box	.	.

Tendered Ballot Paper Account.

Number of tendered ballot papers received from returning officer	.	.	.	.	.
Number unused	.	.	.	.	.
Number spoilt	.	.	.	.	.
Balance, being the number of tendered ballot papers USED and in Packet No. 4	.	.	.	.	.

(Signed) S. T.
Presiding Officer.

The presiding officer will next, in the presence of such agents of the candidates as are in attendance (B. A. r. 55), make up into separate packets, sealed with his seal (*ib.* r. 29):—

1. The ballot box unopened, but with the key attached (B. A. r. 29), and with the opening sealed up (*ib.* s. 2). Making up and sealing the packets.
2. The unused (ordinary and tendered) ballot papers with their counterfoils, and the spoilt ballot papers, placed together (B. A. r. 29). If a ballot paper book be partly used, it must be cut, so that the counterfoils of all the unused ballot papers, with the ballot papers attached, may be put into this packet.
3. The tendered ballot papers used (B. A. r. 29).
4. (*a*) The marked copy of the register of parochial electors; (*b*) the counterfoils of the ballot papers used (B. A. r. 29), both ordinary and tendered; and (*c*) the chief constable's certificates of constables who voted at the presiding officer's polling station (50 & 51 Vict. c. 9, s. 2, sub. 2). The marked register should be sealed up separately from the counterfoils and chief constable's certificates, but all should then be enclosed in one packet (*Stowe v. Foliffe*, L. R. 9 C. P. 446). If a ballot paper book be partly used, it must be cut, so that the counterfoils of all the ballot papers used may be put into this packet; but not the counterfoils of unused ballot papers, which latter must be put into packet No. 2.
5. (*a*) The tendered votes list; (*b*) the list of votes marked by the presiding officer; (*c*) the statement of the number of the voters whose votes are so marked by him; and (*d*) the declarations of inability to read which have been filled up and used (B. A. r. 29).

The presiding officer should also make up into separate packets and seal with his own seal:—

6. The ballot paper account, correctly filled up and showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers (B. A. r. 30).

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7. The appointments of presiding officer and poll clerks.

Making out
list of persons
given into
custody.

If any person has been given into custody at his station, the presiding officer should also make out and enclose in an envelope, indorsed and sealed by him, a return stating (*a.*) the names and descriptions of the persons arrested; (*b.*) the offence with which they were respectively charged; (*c.*) the name of the officer by whom they were charged, and stating whether such officer be the presiding officer, a candidates' polling agent (and if so, which), a poll clerk, a constable, or a parochial elector; (*d.*) the facts and grounds on which the charge is based; (*e.*) any remarks, facts, and circumstances that the presiding officer may deem it useful or desirable to state.

Delivery of
packets to
returning
officer.

Lastly, the presiding officer, with one or more of his poll clerks, as he deems necessary, shall forthwith proceed to the hall, or other appointed place, and there deliver to the returning officer, or deputy returning officer by whom the votes are to be counted, the ballot box and the above-mentioned packets (B.A. r. 29); and he should also deliver to him the stamping instrument, the unused declarations of inability to read, the Pentateuch and Testament, and all the unused forms, cards, paper, and stationery supplied to his station.

The duties of the presiding officer and his poll clerks are then at an end.

CHAPTER XII.

CHAP. XII.

COUNTING THE VOTES AND DECLARATION
OF RESULT.

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The B.A., as adapted and altered by the G.O., R.O., and U.O., is applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3). The provisions of the B.A. have, in many cases, been materially altered by above-named orders from those which appear in the B.A. itself, and are consequently cited not from that Act but from the schedules to G.O. r. 25 ; R.O. r. 24 ; and U.O. r. 25.

RETURNING
OFFICER AT
COUNTING
OF VOTES.

Appointment
and powers
of deputy at
election of
guardians.

If at an election of guardians the poll for the election of guardians for the parish and any poll for the election of urban district councillors are not to be taken together, the returning officer, if he does not himself count the votes, shall appoint some person to act as deputy returning officer for the parish as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate, and of the election of the candidate or candidates to whom the largest number of votes has been given (G.O. r. 21, par. 1). The person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the returning officer in relation to the matters aforesaid, and to the decision of any question as to any ballot paper, and otherwise as to the ballot papers (*ib.*) The returning officer shall not himself count the votes in more than one urban parish in the union (*ib.*) Where the returning officer for the election of urban district councillors is the deputy returning officer for the election of guardians, as provided in G.O. r. 13, par. 1, he shall also be deputy returning officer for the purposes referred to in G.O. r. 21, par. 1 (G.O. r. 21, par. 2).

At election of
urban district
councillors.

If at an election of urban district councillors the returning officer appoints a person to act as deputy returning officer for the district as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate, and of the election of the candidate or candidates to whom the largest number of votes has been given, the person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the returning officer in relation to the matters aforesaid, and to the decision of any question as to any ballot paper, and otherwise as to the ballot papers (U.O. r. 20, par. 1). If polls for the election both of urban district councillors and guardians are taken

together, the same person shall discharge the duties referred to in paragraph (1) of this rule in relation to both elections (*ib.* par. 2).

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At election of rural district councillors.

When, at an election of rural district councillors, the returning officer does not act as a presiding officer at any polling station for the parish, he shall appoint the presiding officer, or some one of the presiding officers, to act as deputy returning officer for the parish, as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate, and of the election of the candidate or candidates to whom the largest number of votes has been given (R.O. r. 20, par. 1 ; P.O. r. 30, par. 1). The person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the returning officer in relation to the decision of any question as to any ballot paper, and otherwise as to the ballot papers (*ib.*). Provided that, if the parish is divided into wards for the election either of rural district councillors or of parish councillors, but not for both elections, or, if the parish is so divided for both elections, and the wards are not the same for both elections, one deputy returning officer shall act under this rule for the whole of the parish (*ib.*). The same person shall act as deputy returning officer in respect of the election both of rural district councillors and of any parish councillors to be elected at the same date for the parish (R.O. r. 20, par. 2 ; P.O. r. 30, par. 2).

The returning officer has several preparations to make to enable him properly to conduct the counting of the votes. He shall provide such things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually (B.A. s. 8) counting the votes and ascertaining the result. This involves the consideration of the place of counting, the requisites for counting, and the mode and manner of counting.

PREPARATIONS FOR COUNTING.

Preparing the counting hall.

There is no requirement that the place of counting at an election of guardians, shall be in the union, or in some place near thereto (see G.O. r. 21, par. 3) ; but at an election of rural district councillors, the place of counting shall be in the parish, or in some place near thereto (R.O. r. 20, par. 3) ; and at an election of urban district councillors, it shall be in the district, or in some place near thereto (U.O. r. 20, par. 3). The room or hall in which the votes are counted may be large or small

CHAP. XII. according to the number of electors, and the number of candidates, and as consequent thereon, the number of officials ; but it should be of ample size to accommodate, without overcrowding, all persons entitled to attend, and who are likely to be present. The returning officer may use, free of charge, for the purpose of counting the votes, any room in a school receiving a grant out of moneys provided by parliament, and any room the expense of maintaining which is payable out of any local rate ; but he shall make good any damage done to such room, and defray any expense incurred by any person or body of persons, corporate or unincorporate, having control over the same, on account of its being used for the purpose of counting the votes as aforesaid (L.G.A. s. 48, sub. 3 (a) ; B.A. s. 6).

Its furniture.

The accounts, papers and things with which the place of counting shall be furnished, and the mode and manner in which the votes shall be counted, are entirely in the discretion of the returning officer. The practice varies in almost every election, and no definite plan applicable to all can be laid down, as so much depends on the number of the electors, the number of the candidates, and the abilities and previous experience of those appointed to count the votes. The following remarks may, however, be of assistance to the returning officer and his advisers in making the necessary arrangements.

The place of counting should be furnished with a number of chairs and tables proportionate to the number of electors in the constituency. Too much subdivision of the work will probably delay rather than hasten it ; but, subject to this, the more counting assistants and tables there are, the quicker will the counting be accomplished. These tables should be placed in convenient positions, with sufficient space between each to pass and repass, and each table should be numbered and labelled (Table No. 1, etc.), and should be furnished with pens, ink, and blotting-paper.

At the top of the room or hall, and if possible on a raised dais, should be placed three tables for the returning officer, his legal adviser (if any), and his chief counting assistant. The tables of the returning officer and of such legal adviser should be furnished with pens, ink, and blotting-paper, and any law books that may be required for reference. The chief assistant's table and surrounding space should be furnished with a sufficient

supply of all the forms required (a careful record of the precise number of each form supplied should be kept), foolscap paper, pens, ink, blotting-paper, the returning officer's seal, sealing-wax, a candle and matches, boxes or bags in which to place the ballot papers when counted (which should be marked with tickets or cards, Nos. 1, 2, etc.), boxes (appropriately labelled) in which to place the stamping machines, unused stationery, etc., a large box or basket in which to mix the ballot papers, and another in which to place the ballot papers when counted. The returning officer should also furnish the police or other officer at the entrance door of the counting hall or room with a sufficient number of cards of re-admission. The following is a form :—

Union.

Parish of	<i>or</i>	[<i>or</i>	Ward of the Parish of
		United Parishes of	].

Election of Guardians [and District Councillors], December, 1894.

Please re-admit Mr. _____ to the counting hall.

Y. Z.,
Returning Officer.

Where there is only one vacancy to be filled, no elaborate system of counting is requisite; the ballot papers are simply divided into heaps or batches for each candidate, and counted. Where there are several vacancies, the mode of counting which, after much consideration, seems to the author to be most expeditious, and at the same time the simplest, is that detailed in the following 'Instructions to Counting Assistants,' and 'Instructions to Chief Counting Assistant.' In other systems the votes are separated, placed on files or in clips (sometimes of different colours, corresponding in number to the number of the candidates), or recorded on enumerating sheets, and then counted; and probably many other variations of these systems are common in practice.

CHAP. XII.

Instructions
to assistants.

INSTRUCTIONS TO COUNTING ASSISTANTS.

RECORDING THE BALLOT PAPERS.

1. Sit in couples with an empty chair between you.
2. On receiving a ballot box and Form B., place the box on the chair between you.

Break the seal [or covering] over the keyhole, unlock and open the ballot box and take out, and open, the ballot papers. [Separate the ballot papers relating to the election of guardians from any relating to the election of urban district councillors, and make the latter up into a separate bundle.] Count the ballot papers [relating to the election of guardians]. Keep the ballot papers with their faces upwards, the numbers on the backs must not be inspected. Count the ballot papers in heaps of twenties, and range these heaps in rows of five each. Leave the ballot papers so counted and arranged on the table.

4. Record the total number of ballot papers in the box on Form B., and sign it. Raise your hand as a signal to the messenger, who will take Form B. for comparison with the ballot paper account.

5. If found correct, the messenger will return and take the ballot papers from you, and will give you another box, which proceed to deal with in like manner.

6. If found incorrect, the messenger will return with Form B., and you will then re-count the ballot papers, and correct Form B., if necessary. If on a re-count the number previously recorded is verified, a note to that effect must be added to Form B. and signed. Then raise your hand for the messenger, who will then take the form and subsequently the ballot papers from you.

COUNTING THE VOTES.

7. On receiving from the messenger a number of ballot papers and Form C., count them, and record the number in the space left for that purpose at the foot of Form C.

8. Sort the ballot papers into [six] heaps, arranged as follows :*

1.	2.	3.	4.
A. & B.	B. & C.	A. & C.	D. & E.
	5.		6.
Single votes and ballot papers not included in the above combinations.			Doubtful Votes.

9. The doubtful votes are :—

- (1.) Those without the official mark.
- (2.) Marked for more than [two] candidates.
- (3.) Containing any writing or mark other than the two crosses.
- (4.) Unmarked, or so marked that you cannot tell for whom the votes are given.
- (5.) Objected to by any of the candidates' agents.

* The case here dealt with is that of five candidates for two vacancies, and the four first-named heaps are the combinations which are expected to be the most frequent. A. B. and C. are supposed to be of one party or interest ; D. and E. of the other. In other cases, the arrangement must be altered as may be necessary.

10. Place the four heaps crosswise on the top of each other in the top left-hand corner of the table; heap No. 1 at the bottom, No. 2 crosswise upon it, and so with Nos. 3 and 4. Then:—

11. Take heap No. 5 and sort it into seven other heaps in the following order:—

1. A. & D.	2. A. & E.	3. B. & D.	4. B. & E.
5. C. & D.	6. C. & E.	7. Single votes.	

12. Place the first six of these heaps crosswise on the top of each other as before.

13. Take heap No. 7 (the single votes) and sort it into five different heaps, thus:—

1. A.	2. B.	3. C.	4. D.	5. E.
----------	----------	----------	----------	----------

14. Count the number of single votes for each candidate and record them separately in the blank squares on Form C.

15. Count and record the cross votes and the party combinations in like manner. (In counting the large heaps, count them in heaps of twenty each, and place these heaps in rows of five heaps in each row.)

16. Cast up each column in Form C. and sign it.

17. Raise your hand as a signal to the messenger, who will take the ballot papers and Form C. from you, and will then hand you another lot of ballot papers, which proceed to sort, count, and record in like manner.

GENERAL.

18. The candidates' counting agents are not to interfere with your duties, but you are to allow them to inspect any ballot paper they may desire to see, but not the numbers on the backs.

19. You are not to leave the table, except in a case of urgent necessity, and your companion must not proceed in your absence.

B.

UNION.

PARISH OF

ELECTION OF GUARDIANS IN THE YEAR 1894.

Number of Ballot Box

Number of Ballot Papers found therein ,

Counted by us,

} Counting Assistants.

CHAP. XII.

C.

UNION.

PARISH OF

ELECTION OF GUARDIANS IN THE YEAR 1894.

No.

STATEMENT of Number of Ballot Papers received and counted, and of Number of Votes therein given for each Candidate.

	A.	B.	C.	D.	E.	Doubtful Votes.
A.		—	—	—	—	
B.	—		—	—	—	
C.	—	—		—	—	
D.	—	—	—		—	
E.	—	—	—	—		
A. and B.			—	—	—	
A. and C.		—		—	—	
A. and D.		—	—		—	
A. and E.		—	—	—		
B. and C.	—			—	—	
B. and D.	—		—		—	
B. and E.	—	—	—	—		
C. and D.	—	—			—	
C. and E.	—	—		—		
D. and E.	—	—	—			
Total						

Table No.

Number of ballot papers received,

(Signed)

} *Counting Assistants.*

INSTRUCTIONS TO CHIEF COUNTING ASSISTANT.

CHAP. XII.

ARRIVAL OF THE PRESIDING OFFICERS.

1. As each presiding officer arrives, the chief assistant will direct the ballot paper account (Packet No. 6), the packet containing the tendered votes list (Packet No. 5), and the packet of unused and spoilt ballot papers (Packet No. 2) to be separated from the other packets, and to be placed on the top of the ballot box to which they belong, and these packets and the ballot boxes he will retain under his own care. The others will be dealt with as follows :—

Instructions to chief assistant.

2. The following packets will be placed in the bags (No. 1) provided for the purpose, unopened and without breaking the seals :—

Packets No. 3.—The tendered ballot papers used.

„ „ 4.—The marked copies of the registers of votes and the counterfoils of the ballot papers used.

3. The following packets will be placed in the boxes provided for the purpose :—

Packets No. 7.—The appointment of the presiding officers, poll clerks, and candidates' polling agents.

Packets No 8.—The unused forms, cards, paper and stationery, and the Pentateuchs and Testaments.

Packets No. 9.—The stamping instruments.

RECORDING THE BALLOT PAPERS.

4. When all the presiding officers and ballot boxes have arrived, the chief assistant will, by the messengers, send one ballot box with one Form B. to each pair of counting assistants, in order that they may count and record the number of ballot papers therein.

5. On receiving by the messengers from each pair of counting assistants Form B. duly filled up and signed by both assistants, the chief assistant will compare the number of ballot papers therein recorded with that appearing in the ballot paper account ; and, if they agree, he will direct the messenger to bring the ballot papers to the box appointed for mixing, and to take another ballot box to the two counting assistants. If the number on Form B. does not agree with that on the ballot paper account, the chief assistant will return Form B. to the counting assistants. If on a re-count a discrepancy is found to exist, the chief assistant will make, a memorandum to that effect on the back of the ballot paper account.

VERIFYING THE BALLOT PAPER ACCOUNT.

6. While the counting assistants are counting and recording the number of ballot papers in the ballot boxes, the chief assistant will open each Packet No. 6 (the ballot paper account), also each Packet No. 2 (the unused and spoilt ballot papers), and also each Packet No. 5, from which last-named packet he will take the tendered votes list. He will then proceed to verify the ballot paper account by comparing it with the unused and spoilt ballot papers and the tendered votes list. He will fasten up and re-seal with the returning officer's seal each Packet Nos. 2 and 5, and will place same in the bags (No. 2), provided for the purpose.

7. When the ballot paper account has been thus fully verified as required by the last two articles (5 and 6) of these instructions, the

CHAP. XII.

chief assistant will sign it, will replace it in its packet, will re-seal such packet with the returning officer's seal, and will place it in the bags, No. 2.

MIXING THE BALLOT PAPERS.

8. The whole of the ballot papers coming from all the boxes will be mixed together in one box, and in so doing care must be taken to keep them with their faces upwards.

COUNTING THE VOTES.

9. The chief assistant will then select indiscriminately from the mixed heap a quantity of ballot papers, which he will send by the messengers with one of the Forms C. to each pair of counting assistants. No one but the returning officer or the chief assistant is to be allowed to take any ballot papers from the mixed heap.

10. The chief assistant will keep a register of the number of Forms C. originally in his possession, and will number them consecutively. As each form or sheet is given out, he will record its number and the names of the assistants to whom it is given, and on its return he will mark it off in his register as returned. The greatest care must be taken that each form issued by the chief assistant is returned to him, and no second form must be issued to any pair of counting assistants until that already in their possession has been returned.

11. The chief assistant will see that the messengers place the counted ballot papers into a different box from that in which are placed the mixed and uncounted ballot papers.

12. As each form C. is brought completed and signed to the chief assistant, he will transfer the several totals to the transfer sheets (Form D). As each transfer sheet is filled up, he will cast and transfer the several totals appearing thereon to the final transfer sheet (Form E.).

DOUBTFUL VOTES.

13. The whole of the doubtful votes will be submitted, one by one, to the returning officer for his decision, who will hear any arguments that the candidates' agents have to submit.

14. The chief assistant will attend the returning officer upon his adjudication on the doubtful votes with one of the Forms C., and the Statement of Votes Rejected (Form F.). He will enter in Form C. each doubtful ballot paper allowed, by making a mark (the figure 1) in the appropriate blank space. He will similarly enter each rejected vote in the appropriate column of the Statement of Votes Rejected (Form F.).

15. When the whole of the doubtful votes have been adjudicated upon, the chief assistant will cast up and sign his sheet C., and will get it checked and countersigned by some other assistant. He will then transfer the total of that sheet C. to the final transfer sheet, and will get the totals of each transfer sheet, and of the final transfer sheet, checked by some other assistant. These last-named totals will show the final result of the counting.

16. The counted and rejected ballot papers will then be made up into separate packets, sealed with the returning officer's seal, indorsed, and placed in one of the bags.

D.

CHAP. XII.

Union

Parish of

ELECTION OF GUARDIANS IN THE YEAR 1894.

TRANSFER SHEET No.

Table No.	Sheet No.	A.	B.	C.	D.	E.	

E.

Union

Parish of

ELECTION OF GUARDIANS IN THE YEAR 1894.

FINAL TRANSFER SHEET.

	Transfer Sheet No.	A.	B.	C.	D.	E.	

T

CHAP. XII.

F.

Union

Parish of

ELECTION OF GUARDIANS IN THE YEAR 1894.

STATEMENT OF VOTES REJECTED.

1	2	3	4
Want of Official Mark.	Voting for more Candidates than entitled to.	Writing or Mark by which Voter could be identified.	Unmarked, or Void for Uncertainty.

TOTALS.

Column No. 1 . .
 „ „ 2 . .
 „ „ 3 . .
 „ „ 4 . .

TOTAL .

Notice of
counting.

Before proceeding to count the votes (which he must do as soon as practicable after the close of the poll ; G.O. r. 21, par. 3 ; R.O. r. 20, par. 3 ; U.O. r. 20, par. 3), the returning officer shall give to the agents of the candidates appointed to attend at the counting of the votes, notice in writing of the time and place at which he will begin to count (B.A. r. 32), by delivering such notice at,

or sending it by post to, the address of each such agent (B.A. r. 52). The following is a form :—

CHAP. XII.

Union .
 Parish of [or Ward of the Parish of or United
 Parishes of .]

ELECTION OF GUARDIANS [AND DISTRICT COUNCILLORS]
 IN THE YEAR 1894.

I HEREBY GIVE YOU NOTICE that I shall begin to count the votes
 at o'clock in the noon of day, the day
 of 189 , at in the above-named parish [or ward].

Dated this day of 189 .
 Y. Z.,
 Returning Officer.

To
 Agent for

No length of notice is prescribed, but, inasmuch as each candidate may appoint his agent up to one clear day before the opening of the poll (B.A. r. 52), the returning officer cannot tell until then to whom he may have to give such notice, and thus the day before, or the day of, the opening of the poll seems naturally to be the time when he should give this notice. He is only bound to give notice to such agents as have been duly appointed and notified to him (*ib.* rr. 52, 32).

The presiding officers shall deliver to the returning officer, or deputy returning officer by whom the votes are to be counted (B.A. r. 29), and the latter shall take charge of, the ballot boxes (*ib.* s. 2), and the several packets of ballot papers, registers, lists, declarations, etc. (*ib.* r. 29). Consequently the returning officer or deputy returning officer must, at the close of the poll, attend at the place appointed for the counting of the votes to receive such ballot boxes, packets, papers, lists, etc. Between the time of his so receiving the ballot boxes, etc., and the time at which he commences to count the votes, the returning officer or deputy returning officer must place responsible and sufficient persons in charge of the ballot boxes, etc., who shall preserve them intact ; it is questionable if he ought not to remain in charge of them himself, as he is responsible for their safe custody (see B.A. s. 2) ; and it has been suggested by a select committee of the House of Commons that they should be placed in some public building, and either guarded by the police, or protected by the sealing of all issues

Attendance
 to receive
 ballot boxes
 and packets.

CHAP. XII.
—

from the room in which they have been placed with the seals of the returning officer or deputy returning officer and such of the candidates and their agents as shall demand such precaution (Parliamentary Papers, 1876, vol. xii. p. xiv.).

HOURS OF
COUNTING.
—

The returning officer shall count the votes (B.A. s. 2) as soon as practicable after the close of the poll (B.A. r. 32; G.O. r. 21, par. 3; R.O. r. 20, par. 3; U.O. r. 20, par. 3); and shall, so far as practicable, proceed continuously therewith, allowing only time for refreshment, and excluding, if and so far as he thinks it necessary, the hours between the close of the poll and 9 A.M. on the succeeding morning (B.A. r. 35). There seems to be no legal objection to counting the votes on a Sunday, but the returning officer is not bound to do so, but may delay the proceedings until the following Monday (see L.G.A. s. 73, and see *post*, p. 315).

Custody of
ballot papers
and docu-
ments.

During the excluded time, the returning officer shall place the ballot papers, and other documents relating to the election, under his own seal, and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents (B.A. r. 35), in the same manner as when they are first delivered to him (see *ante*, p. 275).

PROCEEDINGS
AT COUNT-
ING.
—Who may
be present.

The returning officer shall, in the presence of such agents, if any, of the candidates, as may be in attendance (B.A. r. 55), open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate (B.A. s. 2, and r. 32). The returning officer may refuse to admit to the place where the votes are counted, any candidate's agent whose name and address has not been transmitted to him one clear day at the least before the opening of the poll (*ib.* r. 52; and see *ante*, p. 202). He should refuse to admit any agent who has not made the declaration of secrecy (*ib.* r. 54; see as to this, *ante*, p. 197), and he should, therefore, inform himself as to who have or have not made such declaration. He is bound to admit any candidate (*ib.* r. 51; *Clementson v. Mason*, L. R. 10 C. P. 209) who has not appointed an agent, all agents duly appointed by the candidates, and duly notified to him (B.A. s. 2, rr. 33, 52), and he, of course, admits his own assistants and clerks, but no other person, except with his (the returning officer's) sanction, may be present (*ib.* r. 33). This

sanction obviously should not be given to any person other than those entitled to be, or necessarily, present. The returning officer need not wait for any candidate or agent who does not attend (see B.A. r. 55). The returning officer, and every clerk or agent so attending, must have made the declaration of secrecy before the opening of the poll (*ib.* r. 54), in the manner pointed out, *ante*, p. 197.

If the poll has been taken as to the election of guardians, or rural district councillors, or urban district councillors, only, the returning officer shall (first) open each ballot box, and, taking out the *papers* therein, shall count and record the number thereof (B. A. r. 34) : for a form of this record, see Form B., *ante*, p. 269. He shall (secondly) then mix together the whole of the ballot papers contained in all the ballot boxes (B. A. r. 34). He shall (thirdly) count the *votes* (*ib.*).

Recording,
mixing, and
counting the
ballot papers.

If polls have been taken at the same date for the election both of guardians and of urban district councillors, the returning officer shall (first) open one of the ballot boxes, and, taking out the papers therein, shall separate those relating to the election of guardians from any relating to the election of urban district councillors, and shall count and record the number of ballot papers relating to each election (B.A. r. 34 in G.O. and U.O.); for a form of this record, see Form B, *ante*, p. 269. He shall (secondly) then secure the ballot papers relating to each election by placing them in separate packets under his own seal, and the seals of such of the agents of the candidates as desire to affix their seals, and shall proceed in like manner with any other ballot boxes and the papers therein (*ib.*). When all the ballot boxes and the papers therein have been so dealt with, he shall (thirdly) open all the packets of ballot papers relating to one election, and shall mix all such papers together, and (fourthly) shall proceed to count the votes, keeping the papers relating to any other election sealed up until he has completed such counting (*ib.*). He shall afterwards deal in manner aforesaid with the packets and papers relating to the other election or elections (*ib.*). No vote for any guardian shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for urban district councillors (G.O. r. 25, par. 2); nor shall any vote for any urban district councillor be rendered invalid by the ballot paper being

CHAP. XII. placed in the box intended for the reception of ballot papers for guardians (U.O. r. 24, par. 2).

If polls have been taken at the same date for the election both of rural district councillors and of parish councillors, the same course precisely shall be followed (B.A. r. 34 in R.O.); and if separate ballot boxes are used for the two elections respectively, no vote for any rural district councillor shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for parish councillors (R.O. r. 24, par. 2).

For the above purposes it is necessary that the folded ballot papers should be opened in order to expose their faces, and in opening them it is impossible to avoid seeing their backs, and it is the duty of the returning officer (a duty which the candidates and their counting agents are entitled to supervise) to examine both sides of the ballot papers (*Thornbury*, 16 Q. B. D. 751); but the returning officer, while thus counting and recording the number of *ballot papers*, and counting the *votes*, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers (B.A. r. 34). Although the candidates and their counting agents have thus a right to see the backs as well as the fronts of the papers, they have no right to look at the numbers on those backs, and the returning officer and his counting assistants may prevent it; they need not let the papers out of their hands, and may double up the numbers (*Thornbury*, 2 Times L. R. 488), a course which was substantially taken by Denman, J., in chambers when re-counting the votes in the *Ashton-under-Lyne* petition, in 1885. They may also direct the candidates and their counting agents to retire to such a position, or distance from the counting table, as will prevent their having any opportunity of seeing the numbers on the backs of the ballot papers, though not to such a position or distance as will prevent their supervising the counting and recording of the number of the ballot papers.

Again, although the candidates' counting agents are entitled to be present while the returning officer is counting and recording the number of *ballot papers* taken from each ballot box, they are not entitled to count or record the number of *votes* given for any

particular candidate in any particular polling district or in any particular ballot box; and the returning officer should take all possible means to prevent this, or any other improper exercise of their right of supervision and of being present. CHAP. XII.
—

The mixing of the ballot papers should be so effected as to "mix together the whole of the ballot papers contained in ['all'] the ballot boxes," and, therefore, it is not sufficient to mix together bundles of ballot papers formed during the preliminary operation of counting and recording the number of ballot papers.

Throughout the counting, the returning officer must take all necessary precautions and steps to insure secrecy. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper, under penalty of not exceeding six months' imprisonment, with or without hard labour (B. A. s. 4). Precautions
as to secrecy.

The different systems of counting votes now in vogue, and the system which, in the case of an election to fill two or more vacancies, the author recommends, are discussed, *ante*, p. 267. Whatever system is adopted, the first step is to separate the good from the bad or doubtful votes, and the doubtful votes should be again separated into the five classes specified, *post*, p. 282, *et seq.* The bad and doubtful votes must be open to the inspection of the candidates and their counting agents, but they must not be allowed to see the numbers printed on the backs of the ballot papers (see *ante*, p. 278). Separation of
good from bad
or doubtful
votes.

The returning officer is to decide any question arising in respect of any ballot paper (B.A. s. 2), but the B.A. relates to procedure alone, and contains no enactment affecting the franchise (*Thornbury*, 16 Q. B. D. 746); and the returning officer has no jurisdiction to determine any question affecting the legality of the vote given (*R. v. Bangor, Mayor of*, 18 Q. B. D. 363, 368; *S. C.* in *H. L.*, 13 App. Cas. 249, 250), or to hold a scrutiny. His function is judicial, so far as regards any inquiry into the validity of the voting papers as *papers*, and to OBJECTION
TO BALLOT
PAPER.
—
Jurisdiction
of returning
officer.

CHAP. XII. — see whether they comply with the statute, or whether there is any objection to them; but beyond that his functions are purely ministerial—to count the votes, and to declare the result of that counting (*Pritchard v. Bangor, Mayor, etc. of*, 13 App. Cas. 249, 250). The question of whether any particular mark is or is not intended to be a vote, and if a vote, whether for one or more candidates, is a question of fact rather than of law, and is one for the returning officer in the first instance to decide, but is subject to reversal on election petition (B.A. s. 2; *Woodward v. Sarsons*, L. R. 10 C. P. 748; *Phillips v. Goff*, 17 Q. B. D. 815, 816). In exercising this jurisdiction, the returning officer (or his deputy) acts judicially (*Thornbury*, 16 Q. B. D. 751; *R. v. Owens*, 2 E. & E. 91; *Pritchard v. Bangor, Mayor, etc. of*, 13 App. Cas. 249), and thus cannot delegate this duty to any one else.

Construction
of the B.A.

In dealing with any question which he is empowered to deal with in respect of any ballot paper, the returning officer should remember that the B.A. is to be interpreted liberally (*Cirencester*, 4 O'M. & H. 196), and that it is not every departure from the regulations of the B.A. that will render the vote invalid; and, that while, on the one hand, the enactments contained in the body of the Act are absolute, and must be obeyed by the voter *exactly*, yet that, on the other hand, the rules and forms in the schedule are directory merely, and it is sufficient if they be obeyed *substantially* (*Woodward v. Sarsons*, L. R. 10 C. P. 746; *acc. Phillips v. Goff*, 17 Q. B. D. 812). He should also bear in mind that statutory provisions in general are directory where the thing to be done is to be done by an officer, but are mandatory where it is to be done by the voter (*Thornbury*, 2 Times L. R. 485).

Mandatory
enactments.

Keeping these principles in mind, it will be found that the following are absolute enactments which must be obeyed exactly, and a breach of which will render the vote void:—the voter shall mark his ballot paper secretly (*Woodward v. Sarsons*, L. R. 10 C. P. 747); the ballot paper shall be marked on both sides with the official mark, and if not so marked on the back shall be void and shall not be counted (*Thornbury*, 16 Q. B. D. 739; *Cirencester*, 4 O'M. & H. 195); the ballot paper shall not be so filled up or marked as that the voter can be

identified (*Wigtown*, 2 O'M. & H. 216; *Woodward v. Sarsons*, L. R. 10 C. P. 747), as if, for example, the voter marks the face of the ballot paper with his name or initials (*Woodward v. Sarsons*, L. R. 10 C. P. 749, 750), or the presiding officer marks such face with the voter's register number (*ib.* 748; but see *Thornbury*, 2 Times L. R. 485).

But the *manner* in which the voter shall secretly mark his ballot paper is regulated by the rules and forms contained in the schedule to the B.A., and, as these are directory merely, it is sufficient if they be obeyed substantially (*Woodward v. Sarsons*, L. R. 10 C. P. 747; *acc. Phillips v. Goff*, 17 Q. B. D. 812). There is, therefore, no objection to making the mark with ink instead of with a pencil (*Wigtown*, 2 O'M. & H. 223; *Cirencester*, 4 *ib.* 197); or with a blunt knife, piece of wood, or finger nail (*Berwick-on-Tweed*, 3 *ib.* 180; *Cirencester*, 4 *ib.* 197). The *form of the mark* is also, in the absence of evidence of collusion or pre-arrangement, immaterial (see the instances of good and bad ballot papers, *post*, p. 285, *et seq.*). And, when the matter is one over which the voter has no control, the vote is not to be considered bad by reason of an omission or error of an officer (*Thornbury*, 16 Q. B. D. 746): thus, the wrapping up of the votes of twenty illiterate voters, each in the corresponding declaration of inability to read, and then placing the two together in the ballot box, will not render the votes void (*Woodward v. Sarsons*, L. R. 10 C. P. 748); nor will, it has been held, the omission to detach the ballot paper from the counterfoil in 195 cases, and the giving of the ballot paper with counterfoil attached to the voter, and the deposit of both in the ballot box, render the votes void (*East Clare*, 4 O'M. & H. 163); nor will the insertion of the same candidate's name twice in the ballot paper, the one being in respect of a valid nomination, and the other in respect of an invalid nomination, render either set of votes void (*Northcote v. Pulsford*, *ib.* 483). The omission of the presiding officer to indorse the voter's name upon a tendered ballot paper (*Stepney*, 4 O'M. & H. 43), or to stamp the *face* of the ballot paper with the official mark, does not invalidate the vote (*Thornbury*, 16 Q. B. D. 746); but the omission to insert in the counterfoil the voter's register number may perhaps render the vote void on a scrutiny (*Pickering v. Startin*, 28 L. T. 111).

Directory
enactments.

CHAP. XII.

Ballot papers
which *shall*
be rejected.

The returning officer shall reject, and shall not count, any ballot paper—

- (1.) Which has not on its back the official mark (B.A. s. 2; see *infra*).
- (2.) On which votes are given to more candidates than the voter is entitled to vote for (*ib.*; see *post*, p. 283).
- (3.) On which anything, except the printed number on the back, is written or marked by which the voter can be identified (*ib.*; see *post*, p. 283).

He is also bound to reject any ballot paper—

- (4.) Which is not marked (B.A. r. 36; see *post*, p. 299). Apparently he must also reject any ballot paper—

- (5.) Which is void for uncertainty (*ib.*; see *post*, p. 299).

¶. Want
of official
mark.

With regard to the first of these classes, the presiding officers and their poll clerks can be alone to blame for the absence of the official mark on any ballot paper; and if competent persons are appointed to these posts, and if they do their duty, no ballot paper ought to be subject to the returning officer's rejection upon this ground. If the official mark appears on the back of the ballot paper, its absence from the face of the paper does not render the vote void (*Thornbury*, 16 Q. B. D. 746); but if no trace of an official mark is discernible on the back of the ballot paper, it is void (*Wigtown*, 2 O'M. & H. 216; *Cirencester*, 4 O'M. & H. 195). If the official stamp has only been applied to the face of the ballot paper, but has left a distinct mark upon the back, the ballot paper is good; the statute does not require that the stamp shall be applied to the back, but merely that the back shall bear the official mark (*Cirencester*, 4 O'M. & H. 195). It is not necessary that there shall be in every respect a clear and distinct impression of every part of the stamp; it is sufficient if the evidence afforded by that which appears on the back of the paper leads to the conclusion that the stamp was applied with the intention of making the required mark (*ib.*). Thus, whether the official mark is perforated through the paper, whether the ink is caused to run through the paper so as to indicate the official mark, or whether the stamp is applied but fails to make a perfect mark, in all such cases if there be evidence that the presiding officer has intended to make, and has in fact made, what, fairly looked at, indicates that a recognisable official mark is

upon the back of the ballot paper, the ballot paper is not to be rejected for want of the official mark (*ib.*). CHAP. XII.

With regard to the second of the above classes, it occasionally happens that a voter makes a mistake in marking his votes, and, instead of obtaining another ballot paper, seeks by some means to obliterate his error, and afterwards marks his votes correctly. In any such case, the returning officer must decide whether the additional marks are mere cancellations of errors which in his judgment do not invalidate the votes, or whether they are such marks as would lead to the identification of the voter, and therefore invalidate the ballot paper under the next head (see the facsimile copies of the ballot papers in *Woodward v. Sarsons*, numbered 1632, 1726, and 926, *post*, pp. 289, 290, 294, and those in *Cirencester*, numbered 5592, and 11744, *post*, pp. 294, 303). 2. Voting for more candidates than entitled to.

In dealing with the third of the above classes, viz., ballot papers upon which anything, except the number on the back, is written or marked by which the voter *can* be identified, the returning officer must form the best judgment he can upon the materials before him; and, if in his judgment the mark or marks do not amount to marks by which the voter *can* (not *might* possibly) be identified (*Cirencester*, 4 O'M. & H. 198), the ballot paper is valid, and the votes appearing thereon must be counted. Whether the mark is such that the voter can be identified, is a question of fact; but the mere suggestion that a mark upon the ballot paper *might* possibly afford a clue to the identification of the voter is not sufficient to invalidate the paper; the returning officer must come to the conclusion that the mark standing alone *could* lead to the identification of the voter (*ib.*); and if on the ballot paper there exist positive indications on the part of the voter of an intention to vote without a thought of leaving behind a trace to enable him to be identified, the vote is good (*ib.* 197). 3. Writing or mark by which voter can be identified.

The returning officer is not bound to call for evidence, nor to hold an inquiry for establishing the voter's identification, or for the purpose of showing that the voter had, by previous concert with others, intended to make it known for whom he voted (*Wigtown*, 2 O'M. & H. 225); but, on the other hand, he may and apparently ought to receive any evidence, that is tendered to him, to show that a peculiar mode of marking was resorted to by pre-

CHAP. XII.

arrangement or collusion, to indicate that the paper so marked was the one used by a particular voter, or for any other improper identification (*Woodward v. Sarsons*, L. R. 10 C. P. 749). For example, it is conceivable that a bribe may be promised to (say) twelve voters to vote for A. B., conditionally on their marking their ballot papers with a peculiar mark, or with a mark in a peculiar position, or made with a peculiar pencil or instrument, such bribe to be paid after the counting agents for A. B. should have noticed that twelve ballot papers are marked for A. B. in the stipulated manner; and if, at the counting of the votes, the returning officer is of opinion that the recurrence of a series of similar peculiar marks is in itself evidence of such a pre-arrangement, or if distinct evidence thereof is adduced, he is entitled, and seemingly bound, to reject the votes (see *Woodward v. Sarsons*, L. R. 10 C. P. 749); though if he is of opinion that the irregularity or peculiarity is innocent, or the result of ignorance, or inadvertence, he should allow the votes, and leave the party attacking the votes to seek his remedy by election petition. The register number of the voter, being a mark by which, on reference to the register, the voter can be identified, the court in one case rejected 294 ballot papers because they were marked upon their faces by the presiding officer with such numbers (*Woodward v. Sarsons*, L. R. 10 C. P. 748, 735); but, in a subsequent case, it was held that the voter is not to lose his vote for any act or default of an officer, in a matter in which he (the voter) has no control (*Thornbury*, 2 Times L. R. 485, 490). From the latter decision it would appear that the mark creating the identity must, to render the vote void, be made by the voter himself, and not by any officer, and that thus the former decision is no longer law.

Ballot papers
held to be
bad.

Several cases have come before the courts in which instances of irregularly marked ballot papers have been considered, and these may serve as guides to the returning officer in determining any question that may come before him. From these decisions it appears that the returning officer ought to reject any ballot paper which is marked with—

(1.) The register number of the voter (*Woodward v. Sarsons*, L. R. 10 C. P. 748, 735; but see *Thornbury*, 2 Times L. R. 485, 490).

(2.) The name of the candidate voted for (*Woodward* CHAP. XII.
v. *Sarsons*, L. R. 10 C. P. 748; but see *Buckrose*,
8th Dec. 1886); thus the following * have been both
held to be bad):—

Ballot papers
held to be
bad.

844.

1	SARSONS.	<i>Sarson</i>
2	WOODWARD.	

889.

1	SARSONS.	<i>Sarsons</i>
2	WOODWARD.	

* The facsimile copies of ballot papers in this chapter have been obtained as follows: those in *Woodward v. Sarsons* and *Buckrose* (*Sykes v. McArthur*) from the solicitors engaged in the petitions; those in *Stepney* (*Isaacson v. Durant*) from the originals then in the custody of the registrar of the court; and those in *Cirencester* (*Lawson v. Master*), from the solicitors to the petitioner.

CHAP. XII.

Ballot papers
held to be
bad.

(3.) The name of the voter (*Woodward v. Sarsons*,
L. R. 10 C. P. 749; *acc. Buckrose*, 8th Dec. 1886;
thus :—

638.

1	SARSONS.	X
2	WOODWARD.	

E. Prews

(4.) The name of any third party (*Wigtown*, 2 O'M. &
H. 216; *acc. Buckrose*, 8th Dec. 1886). In another case
the court differed, one judge holding that the following
vote was good, the other that it was bad (*Stepney*,
4 O'M. & H. 40; viz. :—

FRONT OF BALLOT PAPER.

BALLOT PAPER.

1	DURANT. (JOHN CHARLES DURANT, of Clement's House, Clement's Inn Passage, W.C., Printer.)	
2	ISAACSON. (FREDERICK WOOTTON ISAACSON, of 152, Harley Street, W., Gentleman.)	X

BACK OF BALLOT PAPER.

Ballot papers
held to be
bad.

John Micheltt x

1219.

Election for the Stepney Division of the
Borough of
THE TOWER HAMLETS.

November, 1885.

The weight of authority is certainly in favour of the above vote being bad, and the returning officer should therefore reject any ballot paper so marked.

(5.) Initials in addition to a cross (*Woodward v. Sarsons*, L. R. 12 C. P. 750); thus:—

410.

1	SARSONS.	
2	WOODWARD.	<i>CM</i> <i>X</i>

CHAP. XII.

—
Ballot papers
held to be
bad.

The following ballot paper has, however, been held good (*Cirencester*, Jan. 1893), apparently on the ground (see Day, 59) that the mark at the top was merely an unmeaning mark, and not the initials of the voter. But it is submitted that the mark, if not clearly initials, is yet a mark by which the voter could be identified, and that, unless all previous decisions are to be considered as overruled, the ballot paper ought to have been rejected:—

9151.

1	LAWSON HARRY LAWSON WEBSTER LAWSON, Orkney Cottage, Taplow, in the County of Bucks, Esquire.	
2	MASTER THOMAS WILLIAM CHESTER MASTER, Junior, The Abbey, Cirencester, Esquire.	X

(6.) A circle instead of a cross (*Stepney*, 4 O'M. & H. 37; *Wigton*, 2 *ib.* 221; *contra*, *Buckrose*, 4 *ib.* 112); thus:—

4347.

1	DURANT. (JOHN CHARLES DURANT, of Clement's House, Clement's Inn Passage, W.C., Printer.)	○
2	ISAACSON. (FREDERICK WOOTTON ISAACSON, of 152, Harley Street, W., Gentleman.)	

It is, however, difficult to see what difference in principle there is between making a circle and making a star, a peculiar mark, or a geometrical figure, all of which have been held to be good (see *post*, pp. 293, 294),

and the last decision (*Buckrose*, 4 O'M. & H. 112) holding a circle to be a good mark, seems to be more correct than the earlier decisions. CHAP. XII.

Provided there be no evidence of connivance or pre-arrangement, the returning officer may allow and may count any ballot paper which is marked with—

(1.) Two crosses, or three or more crosses, instead of one cross (*Woodward v. Sarsons*, L. R. 10 C. P. 742, dissenting from *Wigtown*, 2 O'M. & H. 218). Thus, the following are all good :—

433.

1	SARSONS.	× ×
2	WOODWARD.	

1632.

1	SARSONS.	
2	WOODWARD.	×

×

On 1632 a X in pencil had evidently been rubbed with a damp finger, as shown.

CHAP. XII.

Ballot papers
held to be
good.

928.

1	SARSONS.		
2	WOODWARD.		

928 had evidently been marked with a X in ink and folded up, thereby making a corresponding mark on the other part of the paper.

1726.

1	 SARSONS. 	
2	WOODWARD.	

Ballot papers
held to be
good.

2573.

1	LAWSON HARRY LAWSON WEBSTER LAWSON, Orkney Cottage, Taplow, in the County of Bucks, Esquire.	
2	MASTER THOMAS WILLIAM CHESTER MASTER, Junior, The Abbey, Cirencester, Esquire.	X

2573 was held to be a good vote for Master (Day, 58), there being a distinct cross against his name, and no mark whatever against the name of the other candidate. There is thus a positive indication on the voter's part of his intention to vote for Master (see *Cirencester*, 4 O'M. & H. 197).

(2.) A single stroke, or a straight line, in lieu of a cross (*Woodward v. Sarsons*, L. R. 10 C. P. 749, dissenting from *Wigtown*, 2 O'M. & H. 218); thus:—

875.

1	SARSONS.	/
2	WOODWARD.	

CHAP. XII.

Ballot papers
held to be
good.

(3.) A straight stroke in addition to the cross (*Woodward v. Sarsons*, L. R. 10 C. P. 749, dissenting from *Wigtown*, 2 O'M. & H. 219); thus:—

2140.

1	SARSONS.	X I
2	WOODWARD.	

(4.) A mark like an imperfect letter P. in addition to the cross (*Woodward v. Sarsons*, L. R. 10 C. P. 749); thus:—

3562.

1	SARSONS.	X P
2	WOODWARD.	

(5.) A star instead of a cross (*ib.*) ; thus :—

Ballot papers
held to be
good.

641.

1	SARSONS.	
2	WOODWARD.	

(6.) A peculiarly formed cross (*ib.*) ; thus :—

1364.

1	SARSONS. 	
2	WOODWARD.	

The last ballot paper (1364) had evidently been marked with a X in ink and folded up, thereby making a corresponding mark on the other part of the paper.

CHAP. XII.
—
Ballot papers
held to be
good.

(7.) A cross or mark blurred, or rubbed with a damp finger, and a better formed cross added, for the same (*ib.*) or another candidate (*Cirencester*, Jan. 1893 ; Day, 54) ; thus :—

926.

1	SARSONS.	
2	WOODWARD.	

5592.

1	LAWSON HARRY LAWSON WEBSTER LAWSON, Orkney Cottage, Taplow, in the County of Bucks, Esquire.	
2	MASTER THOMAS WILLIAM CHESTER MASTER, Junior, The Abbey, Cirencester, Esquire.	

(8.) A figure instead of a cross (*Phillips v. Goff*, 17 Q. B. D. 805).

(9.) A geometrical figure in lieu of a cross (*Buckrose*, 7th Dec. 1886 ; *contra Wigton*, 2 O'M. & H. 221) ; thus :—

7665.

1	MCARTHUR. (WILLIAM ALEXANDER MCARTHUR, of 7, Berkeley Street, Berkeley Square, London, Colonial Merchant.)	
2	SYKES. (CHRISTOPHER SYKES, of Brantingham Thorpe, Yorkshire, Esquire.)	

(10.) A cross placed over the official mark, but within the compartment of the candidate voted for (*Cirencester*, Jan. 1893; see Day, 56); thus:—

CHAP. XII.
Ballot papers held to be good.

7633.

1	LAWSON HARRY LAWSON WEBSTER LAWSON, Orkney Cottage, Taplow in the County of Bucks. Esquire	
2	MASTER THOMAS WILLIAM CHESTER MASTER, Junior, The Abbey, Cirencester, Esquire	

In this case the official mark was an oval with the initials J. W. C.; and it will be observed that the cross is placed over and within the official mark, and that the intersection of the cross is within the compartment belonging to Lawson.

(11.) A monogram or double cross in lieu of a cross (*Cirencester*, Jan. 1893); thus:—

3452.

1	LAWSON HARRY LAWSON WEBSTER LAWSON, Orkney Cottage, Taplow, in the County of Bucks. Esquire.	
2	MASTER THOMAS WILLIAM CHESTER MASTER, Junior, The Abbey, Cirencester, Esquire.	

CHAP. XII.

—
Ballot papers
held to be
good.

(12.) A line drawn through the name of the candidate not voted for, and a cross marked against the name of the other candidate (*Woodward v. Sarsons*, L. R. 10 C. P. 748) ; thus :—

911.

1	SARSONS.	X
2	~~WOODWARD.~~	

(13.) A ballot paper torn longitudinally through the centre (*ib.*), as shown by the dotted line in the following :—

1374.

1	SARSONS.	
2	WOODWARD.	X

(14.) A cross placed on the right-hand side of the paper, but in the space in which the candidate's name was printed, and on the left of, and not within, the space allotted for the cross (*Athlone*, 2 O'M. & H. 187).

(15.) A cross on the left instead of the right-hand side of the candidate's name (*Woodward v. Sarsons*, L. R. 10 C. P. 749), dissenting from *Wigton*, 2 O'M. & II. 218). Thus the following are all good:—

CHAP. XII.
—
Ballot papers held to be good.

155.

1 X	SARSONS.	
2	WOODWARD.	

174.

1	X SARSONS.	
2	WOODWARD.	

117.

X 1	SARSONS.	
2	WOODWARD.	

CHAP. XII.

Ballot papers
held to be
good.

(16.) A cross, or a stroke or strokes, or a figure, on the back in addition to the cross on the face of the ballot paper, provided there be no evidence that the voter can be identified by the writing (*Stepney*, 4 O'M. & H. 39; *acc. Buckrose, ib.* 111; dissenting from *Wigtown*, 2 O'M. & H. 219); thus:—

FRONT OF BALLOT PAPER.

1	DURANT. (JOHN CHARLES DURANT, of Clement's House, Clement's Inn Passage, W.C., Printer.)	
2	X ISAACSON. (FREDERICK WOOTTON ISAACSON, of 152, Harley Street, W., Gentleman.)	

BACK OF BALLOT PAPER.

1002

X

Election for the Stepney Division of the
Borough of
THE TOWER HAMLETS.

November, 1885.

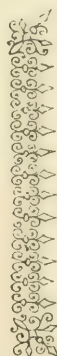
It will be observed that in this case the cross on the back is not in a corresponding position to that on the front, and that if the ballot paper be held up and looked at with the light through it, the cross on the back appears as if made in the proper square on the right-hand side of Durant's name, and that, thus dealt with, the ballot paper shows a cross opposite the name of each candidate.

With regard to the fourth of the above classes, the unmarked ballot papers, of course, present no difficulty. Few will, however, be found to be wholly unmarked, and it must be remembered that a ballot paper may be well marked, although it is not marked with the pencil provided for the purpose (see *ante*, p. 281). Some ballot papers that appear at first sight to be unmarked will probably be found to be marked on the back; but in inspecting the backs, all proper precautions for preventing any person from seeing the numbers printed thereon must be taken by the returning officer (B.A. r. 34), *e.g.* the number should be doubled up (*Thornbury*, 2 Times L. R. 488). A ballot paper marked on the back *only* should be rejected (*Berwick-on-Tweed*, 3 O'M. & H. 182; *acc. Buckrose*, 4 *ib.* 111); but a ballot paper marked on the back, if well marked on the face, and unless bad under the third class (*ante*, p. 283), should be counted (*Stepney*, 4 O'M. & H. 39; *Buckrose*, *ib.* 111; but see *Wigtown*, 2 *ib.* 219).

With regard to the fifth and last of the above classes, viz. ballot papers void for uncertainty, where the mark is so placed as to render it impossible to decide for whom the vote was intended to be given, the ballot paper must be rejected (*Phillips v. Goff*, 17 Q. B. D. 815; *Cirencester*, 4 O'M. & H. 197). If the cross be marked at the top corner of the paper, outside the parallelogram containing the candidate's name, and outside the space for the cross, the ballot paper is bad for uncertainty (*Berwick-on-Tweed*, 3 O'M. & H. 182; *Stepney*, 4 *ib.* 37; *Buckrose*, *ib.* 111); thus the following are both bad:—

X

BALLOT PAPER.



1	HOME. (DAVID MILNE HOME, of Paxton House, in the Shire of Berwick, in Scotland, a Captain in the Royal Regiment of Horse Guards.)	
2	MCLAREN. (JOHN MCLAREN, of 46, Moray Place, Edinburgh, Lord Advocate for Scotland.)	

BALLOT PAPER.

X

1	DURANT. (JOHN CHARLES DURANT, of Clement's House, Clement's Inn Passage, W.C., Printer.)	
2	ISAACSON. (FREDERICK WOOTTON ISAACSON, of 132, Harley Street, W., Gentleman.)	

Ballot papers
void for
uncertainty.

Again, if, in an election for a single vacancy, there is a good mark against the name of each candidate, the ballot paper is clearly void for uncertainty (*Buckrose*, 4 O'M. & H. 111) ; thus the following are all bad :—

1939.

X 1	MCARTHUR. (WILLIAM ALEXANDER MCARTHUR, of 7, Berkeley Street, Berkeley Square, London, Colonial Merchant.)	
2	SYKES. (CHRISTOPHER SYKES, of Brantingham Thorpe, Yorkshire, Esquire.)	

CHAP. XII.

Ballot papers
void for
uncertainty.

1	HOLLAND.	/
2	LORNE.	X

8876.

1	LAWSON HARRY LAWSON WEBSTER LAWSON, Orkney Cottage, Taplow, in the County of Bucks, Esquire.	~~X~~
2	MASTER THOMAS WILLIAM CHESTER MASTER, Junior, The Abbey, Cirencester, Esquire.	\

CHAP. XII.

Ballot papers
void for
uncertainty.

But in the last decided case, it was held that a good cross or mark for one candidate is not neutralised by an unmeaning mark, an obliterated cross, or a blotch, placed near or against the name of the opposing candidate (see *Cirencester*, 4 O'M. & H. 197); thus the two following were held to be good votes for Lawson, notwithstanding the unmeaning marks near or against the name of Master (see *Day*, 56):—

4891.

1	LAWSON HARRY LAWSON WEBSTER LAWSON, Orkney Cottage, Taplow, in the County of Bucks, Esquire.	X
2	MASTER THOMAS WILLIAM CHESTER MASTER, Junior, The Abbey, Cirencester, Esquire.	8—

4917.

1	LAWSON HARRY LAWSON WEBSTER LAWSON, Orkney Cottage, Taplow, in the County of Bucks, Esquire.	* /
2	MASTER THOMAS WILLIAM CHESTER MASTER, Junior, The Abbey, Cirencester, Esquire.	α

The following was held to be a good vote for Master, notwithstanding the obliterated cross against the name of Lawson (Day, 58) :—

CHAP. XII.

Ballot papers
void for
uncertainty.

11744.

1	 LAWSON HARRY LAWSON WEBSTER LAWSON, Orkney Cottage, Taplow, in the County of Bucks, Esquire.	
2	MASTER THOMAS WILLIAM CHESTER MASTER, Junior, The Abbey, Cirencester, Esquire.	

And ballot paper 5592, *ante*, p. 294, was held to be a good vote for Master, notwithstanding the blotch or blurred mark against the name of Lawson.

If the intersection of the cross is exactly on the line between the compartments of the paper, the ballot paper is void for uncertainty (*Buckrose*, 7th Dec., 1886) ; thus :—

8892.

1	McARTHUR. (WILLIAM ALEXANDER McARTHUR, of 7, Berkeley Street, Berkeley Square, London, Colonial Merchant.)	
2	 SYKES. (CHRISTOPHER SYKES, of Brantingham Thorpe, Yorkshire, Esquire.)	

CHAP. XII.

Ballot papers
void for
uncertainty.

But if a good cross is added to that whose intersection is exactly on the line between the compartments of the paper, the former corrects the uncertainty of the latter (*Cirencester*, Jan. 1893), thus, the latter was held to be a good vote for Lawson (Day, 57) :—

11764.

1	LAWSON HARRY LAWSON WEBSTER LAWSON, Orkney Cottage, Taplow, in the County of Bucks, Esquire.	X
2	MASTER THOMAS WILLIAM CHESTER MASTER, Junior, The Abbey, Cirencester, Esquire.	X

And where the voter marked a long cross, each line thereof being partly in the square allotted to one candidate and partly in that of the opposing candidate, the ballot paper was allowed as a good vote for the candidate in whose square the intersection of the cross appeared (*Berwick-on-Tweed*, 3 O'M. & H. 182; *acc. Buckrose*, 7th Dec., 1886); thus :—

1	HOME. (DAVID MILNE HOME, of Paxton House, in the Shire of Berwick, in Scotland, a Captain in the Royal Regiment of Horse Guards.)	
2	MCLAREN. (JOHN MCLAREN, of 46, Moray Place, Edin- burgh, Lord Advocate for Scotland.)	X

If the only mark on the ballot paper is a cross made immediately upon the name of one of the candidates, in such a way as to make it appear possible that the voter

intended to strike out that name, the ballot paper is void for uncertainty (*Buckrose*, 4 O'M. & H. 112; *cp. Cirencester*, No. 2573, *ante*, p. 291). CHAP. XII.
—

On any ballot paper which the returning officer may reject as invalid (*Thornbury*, 16 Q. B. D. 751), he shall indorse "rejected," and shall add to the indorsement "rejection objected to," if an objection be in fact made by any agent to his decision (B.A. r. 36). But this is a directory enactment, and it is sufficient if it be obeyed or fulfilled substantially (see *ante*, p. 281); and, therefore, when the returning officer omitted to make these or any similar indorsements, but as he came to each rejected ballot paper, put the same aside, and, after he had finished the counting, placed all the rejected ballot papers together in a parcel, which he then sealed up and indorsed "rejected ballot papers," the court refused to set the election aside (*Woodward v. Sarsons*, L. R. 10 C. P. 738, 746). Indorsement
on rejected
ballot paper.

The returning officer may adjourn the proceedings for the purpose of finishing the counting (*R. v. Bangor, Mayor, etc. of*, 18 Q. B. D. 363; but not, it would seem, for the purpose of considering, or taking advice on any question that comes before him (*ib.* 363, 354; *Pritchard v. Bangor, Mayor, etc. of*, 13 App. Cas. 250). In the former case the same precautions should be taken for the safe custody of the ballot papers, etc., as when they are originally delivered to the returning officer (see *ante*, p. 275). ADJOURN-
MENT OF
COUNTING.
—

Where the returning officer thinks that there has been an error in the counting, he can re-count the votes before he declares the result (*R. v. Bangor, Mayor, etc. of*, 18 Q. B. D. 354; and see *Stepney*, 2 Times L. R. 571). But if, after he has declared the result, the counting is still erroneous, the mistake can only be rectified by filing an election petition praying a re-count (*Renfrew*, 2 O'M. & H. 213; *Ashton-under-Lyne*, 1885; and see *Dublin*, 1 P. R. & D. 193): and, if it be proved that the counting was improperly conducted, or that irregularities at the counting were committed by the returning officer, and he be made a party to the petition, he may be condemned in the costs thereof (*Halifax*, 4 O'M. & H. 204). Where, at the termination of a scrutiny, the votes are equal in number, the election is a void election (*Downton*, 1 Lud. 264; *acc. Cirencester*, 4 O'M. & H. 198). When the seat is claimed on election VOTES
WRONGLY
CAST UP.
—

CHAP. XII. petition, the respondent may claim a re-count (*Stepney*,
 4 O'M. & H. 35, 49).

—
 Votes
 erroneously
 counted or
 rejected.

Where the returning officer's decision as to any question arising in respect of any ballot paper is deemed to be erroneous, an election petition can be presented (B.A. s. 2); *e.g.* where he erroneously counts or rejects any ballot paper (*Londonderry*, 4 O'M. & H. 96; *Stepney*, *ib.* 35).

CASTING
 VOTE.
 —

If an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer, or deputy returning officer who counts the votes, may, if a parochial elector of the parish (or, in an election of urban district councillors, of the district), give such additional vote in writing, but shall not otherwise be entitled to vote at the election (G.O. r. 22; R.O. r. 21; U.O. r. 21).

Whether the returning officer should give a casting vote or not, is entirely a question for him to decide in each particular case; on the one hand, he cannot be blamed for exercising a power with which the legislature has endowed him; on the other hand, he is not bound to give a casting vote, but may decline to do so (as in *South Northumberland*, May, 719 *n*). It is, however, submitted that the legislature, by giving this power to the returning officer, has intended that it should be exercised, and that the inconveniences of a void election should thus be avoided; and that consequently, in the absence of special circumstances showing the contrary, the returning officer ought to give his casting vote. The casting vote, if given, is not given by ballot, as such a vote does not come within the scope of the Act, since every one present must necessarily know for whom the vote is given; and, moreover, the poll, which is taken by ballot, has closed before the casting vote is given. It must be given in writing (G.O. r. 22; R.O. r. 21; U.O. r. 21). Such casting vote should then be added to the number previously recorded for the candidate for whom it is given, and such candidate, having thus obtained a majority of votes, should be declared duly elected (*Nell v. Longbottom* (1894) 1 Q. B. 767; see further as to this declaration, *post*, p. 308). If the returning officer be not a parochial elector, or if he do not choose to give his casting vote, he must in his declaration of the result of the poll (see *post*, p. 309),

make a double or treble return, as the circumstances of the case may require, and the election is void if on a scrutiny the votes remain equal in number (*Downton*, 1 Lud. 264; *Cirencester*, 4 O'M. & H. 199). If the returning officer should vote where there is not an equality of votes, or where the addition of a vote would not entitle any of the candidates to be declared elected, or where he is not a parochial elector, his vote will be struck off on a scrutiny (Cunn. 401); and if he vote, knowing that he is not entitled to vote, he is guilty of an illegal practice (M.E.C.I.P.A. s. 6, sub. 1).

Upon the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers (B.A. r. 37). He shall not open the sealed packets of tendered ballot papers used, or those containing the registers of voters and counterfoils of ballot papers used (*ib.*), and the chief constable's certificates. He must open the sealed packets containing the unused and spoilt ballot papers, tendered and ordinary, and also the packets containing the tendered votes lists, for he shall, in the presence of such agents of the candidates (B.A. r. 37) as are authorized to attend (*ib.* rr. 31, 52), and do attend (*ib.* r. 55), proceed to verify the ballot paper account given by each presiding officer, by comparing it with the number of ballot papers recorded by him (the returning officer) as aforesaid (see *ante*, p. 277), and the unused and spoilt ballot papers in his possession, and the tendered votes list (B.A. r. 37). He shall then re-seal each sealed packet so opened for examination by him (*ib.*) He shall draw up a statement as to the result of such verification (*ib.*), and showing the number of ballot papers rejected and not counted by him under the several heads of—

SEALING
UP THE
PACKETS.

Verification of
ballot paper
accounts

Statement
of result.

1. Want of official mark ;
2. Voting for more candidates than entitled to ;
3. Writing or mark by which the voter can be identified ;
4. Unmarked or void for uncertainty ;

and shall, on request, allow any agents of the candidates to copy it (B.A. rr. 36, 37).

If the votes are counted by a deputy returning officer he shall, with the declaration of the result of the poll, report to the returning officer the number of ballot papers rejected and not counted by him, under the above heads, and the result of the verification, and no

there seems to be no legal objection to making it on a Sunday. It is to be made "forthwith," and therefore must not be postponed until the next day, or delayed for any reason whatever (*Pritchard v. Bangor, Mayor, etc. of*, 13 App. Cas. 250, 258). "Forthwith" does not mean immediately (*Roberts v. Brett*, 34 L. J. C. P. 241), but within a reasonable time (*R. v. Price*, 8 Moore, 203; *R. v. Worcester, Justices of*, 7 Dowl. 789; *Tennant v. Bell*, 9 Q. B. 684; *Costar v. Hetherington*, 1 El. & El. 802). It would seem that if, contrary to this provision, the returning officer should remain silent and make no formal declaration, the candidate having the majority of votes would nevertheless be duly elected (*Pritchard v. Bangor, Mayor, etc. of*, 13 App. Cas. 241).

If the candidate elected be alleged to be disqualified, the returning officer should nevertheless declare him to be elected, and should thus leave the objector, or the candidate next in order to the candidate elected and alleged to be disqualified, to seek his remedy by election petition, or otherwise as he may be advised. The returning officer is no judge of the eligibility of candidates (*Heyw. Co.* 526; *Pritchard v. Bangor, Mayor, etc. of*, 13 App. Cas. 249, 250); nor can he be expected to take upon himself to decide nice questions of law or fact upon the spur of the moment, and during the heat of an election contest (see *Rog.* 692; *Sim.* 183; *Dumfermling*, 1 Peck. 16 n.).

Where candidate alleged to be disqualified.

The returning officer, or deputy returning officer, as the case may be, shall forthwith fill up and sign a written declaration of the result of the poll, and cause a copy of it to be affixed on the front of the building in which the votes have been counted (G.O. r. 23, par. 2; U.O. r. 22, par. 2; R.O. r. 22, par. 2). The name and address of the printer and publisher must appear on the face of any printed copy so affixed (M.E.C.I.P.A. s. 14). In an election of guardians, the declaration shall be in the following form, or in a form to the like effect (G.O. r. 23, par. 1):—

Written declaration of result.

Union.

Election of Guardians for the above Union in the year 1894.

Parish of [or ward of the parish of or united
parishes of].

I, the undersigned, being the Returning Officer [or Deputy Returning Officer duly authorised in that behalf] at the poll for the Election of Guardians for the said parish [or ward, or united parishes] held on

310 *Counting the Votes and Declaration of Result.*

CHAP. XII.

the day of December, 1894, do hereby give notice that the number of votes recorded for each candidate at the election is as follows :—

Names of Candidates.		Places of Abode.	Number of Votes recorded.
Surnames.	Other Names.		

And I do hereby declare that the said are duly elected Guardians for the said parish [*or ward, or united parishes*].

Dated this day of December, 1894.

Returning Officer,
[*or Deputy Returning Officer*].

In an election of urban district councillors the declaration shall be in the following form, or in a form to the like effect (U.O. r. 22, par. 1) :—

Urban district of .

Election of urban district councillors for the above district [*or for the ward of the above district*].

I, the undersigned, being the returning officer [*or deputy returning officer duly authorised in that behalf*] at the poll for the election of urban district councillors for the said district [*or ward*] held on the day of December, 1894, do hereby give notice that the number of votes recorded for each candidate at the election is as follows :—

Names of Candidates.		Places of Abode.	Number of Votes recorded.
Surnames.	Other Names.		

And I do hereby declare that the said are duly elected urban district councillors for the said district [*or ward*].

Dated this day of December, 1894.

Returning Officer,
[*or Deputy Returning Officer*].

And in an election of rural district councillors, the declaration shall be in the following form, or in a form to the like effect (R.O. r. 22, par. 1) :—

CHAP. XII.

Rural District of .
Election of Rural District Councillors for the above District in the year 1894.

Parish of [or ward of the parish of or united parishes of].

I, the undersigned, being the Returning Officer [or Deputy Returning Officer duly authorised in that behalf] at the poll for the election of Rural District Councillors for the said parish [or Ward, or united parishes] held on the day of December, 1894, do hereby give notice that the number of votes recorded for each candidate at the election is as follows :—

Names of Candidates.		Places of Abode.	Number of Votes recorded.
Surnames.	Other Names.		

And I do hereby declare that the said are duly elected Rural District Councillors for the said parish [or ward, or united parishes].

Dated this day of December, 1894.

Returning Officer,
[or Deputy Returning Officer].

If the above declaration is made by a deputy returning officer, he shall forthwith send it (*i.e.* the original declaration signed by him) to the returning officer (G.O. r. 23, par. 2 ; U.O. r. 22, par. 2 ; R.O. r. 22, par. 2).

Sending declaration to returning officer.

The returning officer shall prepare and sign a statement of the result of all the elections, and shall thereby declare the names of the candidates elected, and shall cause a copy of such statement to be suspended in the board room of the guardians, and shall send copies to the overseers, who shall cause public notice to be given of such statement, in the form and as mentioned, *ante*, pp. 127, 128. In an election of rural district councillors, he shall prepare and sign this statement in duplicate, and shall send one to the clerk to the rural district council, and another to the clerk to the guardians of the union

PUBLICATION OF RESULT OF ELECTIONS.

CHAP. XII. — comprising the rural district, and shall send copies to the returning officer for so much of the rural district as is situate in another union, and to the elected candidates, as mentioned, *ante*, p. 134.

The name and address of the printer and publisher must appear upon the face of every bill, placard, or poster used for the purpose of giving this notice (M.E.C.I.P.A. s. 14, and see *ante*, p. 228). No misnomer, or inaccurate description of any person or place named in the notice, shall hinder the full operation of such notice with respect to that person or place, provided the description of that person or place is such as to be commonly understood (G.O. r. 35 ; R.O. r. 34 ; U.O. r. 32) ; as to what is "commonly understood," see *ante*, p. 100. This notice is entirely distinct from the declaration of the poll, and cannot alter the effect of a numerical majority of votes given for any candidate (*Pritchard v. Bangor, Mayor, etc. of*, 13 App. Cas. 241).

CUSTODY
AND DE-
STRUCTION.
—

Lastly, the returning officer shall carefully preserve for six months all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the parish for which such election was held (B.A. rr. 38, 39) ; and at the expiration of six months, unless otherwise directed by an order of the county court having jurisdiction in the parish (or rural district) or in any part thereof, or of any tribunal in which the election is questioned, he shall cause them to be destroyed (B.A. r. 39).

Inspection.

As to obtaining an order to inspect rejected or counted ballot papers or counterfoils, see B.A. rr. 40, 41, 43, and as to appealing against any order of the county court, see B.A. r. 43 (*a*). As to inspecting all other documents in the custody of the returning officer, see B.A. r. 42.

EXPENSES OF
ELECTION.
—

Guardians and
rural district
councillors.

In an election of guardians, any sum which may be payable to the returning officer in respect of his services in taking a poll in the parish, or in respect of expenses incurred in relation to such poll (G.O. r. 29, par. 1 ; R.O. r. 28, par. 1), shall be defrayed by the guardians of the poor law union, and shall be charged to the parish in their accounts (G.O. r. 29, par. 1). In an election of

rural district councillors any such sum shall be defrayed by the rural district council of the district, and shall be charged to the parish in their accounts, and shall be raised in like manner as any sums payable by the parish in respect of the general expenses of the rural district council (R.O. r. 28, par. 1).

In an election of guardians, any other sum which may be payable to the returning officer in respect of his services in the conduct of the election, or in respect of expenses incurred in relation to the election (G.O. r. 29, par. 2; R.O. r. 28, par. 2), shall be defrayed by the guardians, and shall, in the case of a union, be charged to the common fund (G.O. r. 29, par. 2); in an election of rural district councils, any such sum shall be defrayed by the rural district council of the district, and shall be charged in their accounts as general expenses (R.O. r. 28, par. 2).

In an election of urban district councillors, any sum which may be payable to the returning officer in respect of his services in the conduct of the election of urban district councillors, or in respect of expenses incurred in relation to the election, shall be defrayed by the urban district council out of the fund or rate applicable to their general expenses under the Public Health Act, 1875 (U.O. r. 28, par. 1).

If polls for the election of guardians and urban district councillors are taken together, one-half of any expenses which may be payable in respect of the two polls jointly, including the remuneration of any officers employed in the conduct thereof, shall be deemed to have been incurred in relation to the poll for the election of guardians, and shall be defrayed accordingly (G.O. r. 29, par. 3), and the other half shall be deemed to have been incurred in relation to the poll for the election of urban district councillors, and shall be defrayed accordingly (U.O. r. 28, par. 2).

If a poll for the election of rural district councillors and of any parish councillors is taken at the same date in the parish, one-half of any expenses which may be payable in respect of the two polls jointly, including the remuneration of any officers employed in the conduct thereof, shall be deemed to have been incurred in relation to the poll for the election of rural district councillors, and shall be defrayed accordingly (R.O. r. 28, par. 3), and the other half shall be deemed to have been incurred

CHAP. XII. in relation to the poll for the election of parish councillors, and shall be defrayed accordingly (P.O. r. 38, par. 2).

Wards. If in an election of guardians, the parish is divided into wards for the election of guardians, G.O. r. 29, pars. 1, 2, 3 (*ante*, p. 312 and *supra*) shall apply to each of such wards as if it were a parish (G.O. r. 31, par. 1), and any sum which would be charged to any such ward shall be charged to the parish in which the ward is situate (*ib.* par. 3).

If in an election of rural district councillors, the parish is divided into wards for the election of councillors, R.O. r. 28, pars. 1, 2, 3 (*ante*, p. 312 and *supra*) shall apply to each of such wards as if it were a parish (R.O. r. 30, par. 1), and any sum which would be charged to any ward shall be charged to the parish in which the ward is situate and shall be raised accordingly (*ib.* par. 3).

If in an election of urban district councillors the district is divided into wards for the election of councillors, U.O. r. 28, pars. 1, 2 (*ante*, p. 313) shall apply to each of such wards as if it were the district (U.O. r. 29, par. 1), and any sum which would be charged to any ward shall be charged to the district (*ib.* par. 3).

United
parishes.

If the parish is united with any other parish for the election of guardians, G.O. r. 29, pars. 1, 2, 3 (*ante*, p. 5), shall apply as if such parishes formed the parish (G.O. r. 32, par. 1); if it is united for the election of rural district councillors, R.O. r. 28, pars. 1, 2, 3 (*ante*, pp. 312, 313) shall apply as if such parishes formed the parish (R.O. r. 31, par. 1). Any sum which would be charged to the united parishes shall be divided between them in proportion to the number of parochial electors registered in such parishes respectively (G.O. r. 32, par. 3; R.O. r. 31, par. 3), and shall be raised accordingly (R.O. r. 31, par. 3).

Scale of
expenses.

The expenses of any election under the L.G.A. shall not exceed the scale fixed by the county council, and if at the beginning of one month before the first election under the L.G.A. a county council have not framed any such scale for their county, the Local Government Board may frame a scale for the county, and the scale so framed shall apply to the first election, and shall have effect as if it had been made by the county council, but shall not be alterable until after the first election (L.G.A. s. 48, sub. 7).

CHAPTER XIII.

CHAP. XIII.

TIME-TABLES FOR THE FIRST ELECTIONS.

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<i>Sundays, bank holidays, etc.</i> .	315	<i>Rural district councillors</i> .	318
MISCALCULATION OR MISTAKE	317	<i>Urban district councillors</i> .	319

The tables at the end of this chapter show the dates FIXED DATES FOR FIRST ELECTIONS. for every act to be done on a fixed date in respect of the first elections of guardians and district councillors in December, 1894.

The computation of time in respect to these elections is much simplified by the non-application of M.C.A. s. 230, a provision which has led to much discussion and difficulty (see Election of County Councils, pp. 112, 184), and by the exception of B.A. r. 56 from the provisions which have been adapted to these elections. The result is that the only enactment regulating the computation of time is L.G.A. s. 73. Computation of time.

It will be observed that this enactment (L.G.A. s. 73) does not direct that Sundays, etc., shall be excluded in reckoning time (*cp.* B.A. r. 56), but simply provides that when the day on which anything is required by or in pursuance of this Act to be done is Sunday, Christmas Day, or Good Friday, or a bank holiday, that thing shall be done on the next following day, not being one of the days above mentioned. Sundays, bank holidays, etc.

The bank holidays are Easter Monday, Whit Monday, the first Monday in August, and the 26th December, if a week day; if not, the 27th December (34 & 35 Vict. c. 17, s. 1; 38 & 39 Vict. c. 13, ss. 1, 2). The Act (L.G.A. s. 73) does not mention a day appointed for public fast, humiliation, or thanksgiving (*cp.* M.C.A.

CHAP. XIII. s. 230), and such a day must therefore be treated like any other day.

Sundays, bank holidays, etc., are therefore not excluded in the computation of time, but are to be reckoned like any other day. But when the day on which anything is *required* by or in pursuance of the L.G.A. to be done falls on a Sunday, etc., that thing is to be done, not on the Sunday, but on the next following working day, not being one of the days above mentioned, and thus, under such circumstances, the L.G.A. prohibits the doing of any such thing on a Sunday, etc.

Where however the thing is not *required*, but is only *allowed*, to be done by or in pursuance of the L.G.A., and the day on which it is allowed to be done falls on a Sunday, etc., it is submitted that the above enactment does not apply, and that the thing, if done, must be done on the Sunday (if it be a thing which may lawfully be done on a Sunday) or on the previous working day, not being Christmas Day, or any of the days above mentioned (*cp.* M.C.A. s. 230, sub. 2, and *Westbury-on-Severn Union*, 4 E. & B. 314, where the words of the order in question were "the day *appointed* for the performance of any act," and the order prescribed that "each subsequent proceeding shall be postponed one day"): as to things which may lawfully be done on a Sunday, see *Colvill v. Lewis*, 2 M. G. & S. 60; *Rawlins v. West Derby Overseers of*, *ib.* 72. So also, where the thing though *required* to be done by or in pursuance of the L.G.A. is not required to be done on a certain day, but may be done on any one of several days, it is submitted that the enactment does not apply, and that the thing must be done on the Sunday (if it be a thing which may lawfully be done on a Sunday), or on the previous working day, not being any of the days above mentioned (see the opinion of Mr. R. S. Wright, *Election of County Councils*, p. 261).

Thus, for example, the chairman of the parish meeting, where a poll is demanded, is required on the day after the parish meeting to send notice to each of the candidates who have been nominated (P.O. r. 16), and this is a thing which is required, in pursuance of the L.G.A., to be done on a day certain. If therefore the parish meeting were held on a Saturday, it would be the chairman's duty to send this notice not on the Sunday, but on the following Monday.

But the notice of poll, which has to be given five clear days at least before the day fixed for the poll (G.O. r. 16, par. 1; R.O. r. 15, par. 1; U.O. r. 15, par. 1), though a thing which is required to be done in pursuance of the L.G.A., is not required to be done on a day certain, but may be done on any day, not being less than five clear days before the day fixed for the poll. The notice of poll which has to be given when the poll day is fixed for Saturday, the 15th of December, may therefore, it is submitted, be given on Sunday, the 9th of December, or on Saturday, the 8th of December, but will be too late if given on Monday, the 10th of December, 1894.

CHAP. XIII.

Again, the appointment of a polling agent which candidates may send to the returning officer not less than two clear days before the day of the poll (G.O. r. 19; R.O. r. 18; U.O. r. 18), is a thing, not required but allowed, to be done in pursuance of the L.G.A., and when therefore the last of the days on which this thing can be done falls on a Sunday, it must, it is submitted, be done on that Sunday or on some previous working day, and cannot be done on the following Monday.

It is possible that a different view may be taken by the courts of the above enactment (L.G.A. s. 73), see *Westbury-on-Severn Union*, 4 E. & B. 314, but until then the above is, it is submitted, the safe and prudent view to take. Little, if any, practical danger is likely to arise from any miscalculation or *bonâ fide* mistake, inasmuch as it is enacted that no election shall be declared invalid by reason of a non-compliance with the rules contained in the first schedule to the L.G.A., or in the G.O., R.O., or U.O., if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of the B.A. and L.G.A., and that such non-compliance or mistake did not affect the result of the election (B.A. s. 13). This, therefore, practically saves any accidental miscalculation or *bonâ fide* error, not affecting the result of the election, with respect to any of the dates down to and including the day of poll; and the subsequent, though equally important dates, do not affect the validity of the election then already held.

MISCALCULATION OR MISTAKE.

CHAP. XIII.

TIME-
TABLES.TIME-TABLE FOR THE ELECTION OF
GUARDIANS.

Guardians.

1894.	
Dec. 1, Sat.	Last day for notice of election.
„ 5, Wed. 2 P.M.	Last day and hour for sending in nomination papers.
„ 7, Fri. 4 P.M.	Last day and hour for candidate to withdraw his candidature.
„ „ 4 P.M.	Returning officer's statement as to persons validly nominated to be sent to returning officer for election of urban district councillors.
„ „	Last day for returning officer's statement as to persons nominated.

Last day for notice of poll	Sun. 9 Dec.*	Tues. 11 Dec.	Wed. 12 Dec.	Thurs. 13 Dec.
Last day for sending in appointment of polling agents	Wed. 12 „	Fri. 14 „	Sat. 15 „	Sun. 16 „
Poll day	Sat. 15 „ ‡	Mon. 17 „ †	Tues. 18 „ ‡	Wed. 19 „ ‡

Dec. 28, Fri. Guardians come into office, and present guardians retire.

Rural district
councillors.TIME-TABLE FOR THE ELECTION OF
RURAL DISTRICT COUNCILLORS.

1894.	
Dec. 1, Sat.	Last day for notice of election.
„ 5, Wed. 2 P.M.	Last day and hour for sending in nomination papers.
„ 7, Fri. 4 P.M.	Last day and hour for candidate to withdraw his candidature.
„ „	Last day for returning officer's statement as to persons nominated.

Last day for notice of poll	Sun. 9 Dec.*	Tues. 11 Dec.	Wed. 12 Dec.	Thurs. 13 Dec.
Last day for sending in appointment of polling agents	Wed. 12 „	Fri. 14 „	Sat. 15 „	Sun. 16 „
Poll day	Sat. 15 „ ‡	Mon. 17 „ †	Tues. 18 „ ‡	Wed. 19 „ ‡

Dec. 28, Fri. Rural district councillors come into office, and members of present rural sanitary authority cease to hold office.

* See *ante*, p. 317.

† This is the poll day fixed by G.O. r. 2, par. 1.

‡ The poll can only be held on any one of these days if the county council, for special reasons, so fix it.

§ This is the poll day fixed by R.O. r. 2, par. 1.

CHAP. XIII.

TIME-TABLE FOR THE ELECTION OF
URBAN DISTRICT COUNCILLORS.Urban district
councillors.

1894.

Dec. 1, Sat . . .	Last day for notice of election.
„ 5, Wed. 2 P.M.	Last day and hour for sending in nomination papers.
„ 7, Fri. 4 P.M.	Last day and hour for candidate to withdraw his candidature.
„ „ . . .	Last day for returning officer's statement as to persons nominated.

Last day for notice of poll	Sun. 9 Dec.*	Tues. 11 Dec.	Wed. 12 Dec.	Thurs. 13 Dec.
Last day for sending in appointment of polling agents . . .	Wed. 12 „	Fri. 14 „	Sat. 15 „	Sun. 16 „
Poll day . . .	Sat. 15 „ †	Mon. 17 „ †	Tues. 18 „ †	Wed. 19 „ †

Dec. 31, Mon. . Urban district councillors come into office, and members of present urban sanitary authority cease to hold office.

* See *ante*, p. 317.

† This is the poll day fixed by U.O. r. 2, par. 1.

‡ The poll can only be held on any one of these days, if the county council, for special reasons, so fix it.

PART V.

OFFENCES AT ELECTIONS.

CHAP. XIV.

CHAPTER XIV.

CORRUPT PRACTICES.

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<i>Bribery</i>	320	<i>Personation</i>	321
<i>Treating</i>	321	<i>General corrupt practices</i>	322

The M.E.C.I.P.A., as adapted and altered by the G.O. r. 27, R.O. r. 26, and U.O. r. 26, is applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3.

Definition.

Corrupt practices comprise bribery, treating, undue influence, personation, and the aiding, abetting, counselling, and procuring of personation (M.E.C.I.P.A. s. 2, sub. 1).

Bribery.

Bribery may be shortly defined as the direct or indirect gift, loan, offer, or promise or procurement, before, during, or after an election, of any money, valuable consideration, office, place, or employment, to or for any voter, in order to induce such voter to vote, or to refrain from voting, or because he has voted or has refrained from voting, for any person, or because he has procured, or endeavoured to procure, the return of any person or the vote of any voter (M.E.C.I.P.A. s. 2, sub. 1 ; sch. III. part I.). The essence of a bribe is its corrupt intention, and if that be proved, the amount of the bribe is immaterial, even though the act be isolated and insignificant. The recipient of the bribe is guilty of bribery as well as the briber. A mere offer, or promise, of a bribe, a loan as distinguished from an absolute gift, may be a bribe, and it matters not how long before the election

the bribe be given, if it be operative on the person bribed at the time of the election. See further hereon, Election Agent, p. 380. CHAP. XIV.

Treating may be shortly defined as the direct or indirect, corrupt gift or provision, before, during, or after an election, of meat or drink to any person, for the purpose of corruptly influencing any person to give or refrain from giving his vote, or on account of his having voted or refrained from voting at an election (M.E.C.I.P.A. s. 2, sub. 1; sch. III. part I.). The elector who corruptly accepts the same is also guilty of treating (*ib.*). The corrupt intent is of the very essence of the offence; treating *before* the election must be operative on the elector at the time he votes or is expected to vote, and treating *after* the election must be for the purpose of rewarding the voter for having voted in a particular way, or in pursuance of a previous corrupt understanding or agreement. But mere hospitality, unaccompanied by any corrupt motive, is not treating. See further hereon, Election Agent, p. 406. Treating.

Undue influence may be shortly defined as the direct or indirect use or threat of force, violence, or restraint, or the infliction or threat of temporal or spiritual injury, damage, harm, or loss, upon or against any person, to induce or compel such person, to vote or refrain from voting, or on account of such person having voted or refrained from voting, at an election, or the impeding or preventing of the free exercise of the franchise by abduction, duress, or any fraudulent device or contrivance (M.E.C.I.P.A. s. 2, sub. 1; sch. III. part I.). Influence to be undue must be corrupt, but the threat or attempt is an offence equally with the actual act. See further hereon Election Agent, p. 423. Undue influence.

Personation is the application for a ballot paper in the name of some other person, or the application in the applicant's own name after having already voted at the same election (M.E.C.I.P.A. s. 2, sub. 1; sch. III. part I.). The aiding, abetting, counselling, or procuring the commission of personation is also personation (*ib.*). The offence must be knowingly and wilfully committed, and with a corrupt mind and intention; an innocent or *bonâ fide*, though erroneous, application for a ballot paper is not personation. See further hereon, Election Agent, p. 434. Personation.

CHAP. XIV.

General
corrupt
practices.

An election for a guardian or a district councillor shall be wholly avoided by such general corruption, bribery, treating, or intimidation at the election as would by the common law of parliament avoid a parliamentary election (M.C.A. s. 81 ; and see Election Agent, pp. 379, 405, 417).

CHAPTER XV.

CHAP. XV.

ILLEGAL PRACTICES, PAYMENT, EMPLOYMENT, AND HIRING.

I.—ILLEGAL PRACTICES.

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II.—ILLEGAL PAYMENT, EMPLOYMENT, AND HIRING.

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I.—ILLEGAL PRACTICES.

An illegal practice is an offence created by the Definition of C.I.P.P.A., and continued by the M.E.C.I.P.A. The illegal practice and its consequences, latter Act, as adapted by the G.O. r. 27; R.O. r. 26, and

U.O. r. 26, is applied to the election of guardians and district councillors, by L.G.A. s. 48, sub. 3.

Some acts are illegal practices when committed by any agent or person whomsoever; and some are so only when committed by the candidate. As regards the seat, some illegal practices avoid the election if committed by the candidate or any of his agents (M.E.C.I.P.A. s. 8), others have this effect only when committed by the candidate (*ib.* ss. 6, 17); but where the election court reports that illegal practices have so extensively prevailed that they may be reasonably supposed to have affected the result of the election, the election is avoided (*ib.* s. 18), by whomsoever the illegal practices were committed. As regards the offender, his vote is, *ipso facto*, void (*ib.* s. 22), and a conviction renders him liable to a fine of £100, and incapacitates him for five years from voting at any election held for or within the parish, united parishes, or urban district, in which the illegal practice has been committed (*ib.* s. 7). As regards eligibility, if the election judges report that an illegal practice in reference to the election was committed by the candidate or his agents, the candidate shall not be capable of being elected to or holding the office of guardian or district councillor in the said parish, united parishes, or urban district, during the period for which he was elected to serve, or for which if elected he might have served, and if he was elected his election shall be void (*ib.* s. 8, sub. 2); so also if extensive illegal practices be reported (*ib.* s. 18); and, if the report is that the candidate has himself been guilty of such illegal practice, he shall also be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice (*ib.* s. 8, sub. 2). As to relief against the consequences of the illegal practice, see *post*, pp. 330, 345.

Definition of
"payment,"
"pecuniary
reward," and
"money."

In considering the subjects of illegal practices, and of illegal payment, employment, or hiring, it must be carefully borne in mind that the expression "payment" includes any pecuniary or other reward; that the expressions "pecuniary reward" and "money," include any office, place, or employment, and any valuable security or other equivalent for money, and any valuable consideration (M.E.C.I.P.A. s. 34; C.I.P.P.A. s. 64); and that refreshment, for example, being money's worth, is equivalent to payment (*Barrow-in-Furness*, 4 O'M. & H.

78). Also, that the expression "person" includes an association or body of persons, corporate or unincorporate, and that where any act is done by any such association or body, the members of such association or body, who have taken part in the commission of such act, are liable to any fine or punishment imposed for the same by the Act (M.E.C.I.P.A. s. 34 ; C.I.P.P.A. s. 64). The knowledge which the offender must possess is a knowledge of the facts which constitute the offence ; *e.g.* he must be fixed with knowledge of all facts which constitute a conveyance a public stage or hackney carriage (M.E.I.C.P.A. s. 10), and that established, the presumption as to knowledge of the law will apply and bring the case within the Act.

CHAP. XV.
Definition of
"person."

The acts which are illegal practices, avoiding the election, if committed by the candidate or any of his agents (M.E.C.I.P.A. s. 8, sub. 2), are three in number, viz. :—

ILLEGAL
PRACTICES BY
CANDIDATE
OR ANY
AGENT.

1, 2 & 3. Any payment, or contract for payment, knowingly made in contravention of the Act, or the receiving any payment, or being party to any contract, with the like knowledge, on account of—

Payments, or
contracts for
payment
for :—

(a.) The conveyance of electors to or from the poll, whether for the hiring of horses or carriages or for railway fares, or otherwise (M.E.C.I.P.A. s. 4, sub. 1 (a) and sub. 2, and see *ante*, p. 233).

1. Convey-
ance of voters
to or from the
poll.

(b.) The use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice, the recipient, or party to the contract, being an elector, and not an advertising agent receiving such payment or making such contract in the ordinary course of his business (M.E.C.I.P.A. s. 4, sub. 1 (b), sub-ss. 2, 3, and see *ante*, p. 229).

2. Exhibition
of addresses,
notices, etc.

(c.) Any committee room in excess of the number allowed by the Act (M.E.C.I.P.A. s. 4, sub. 1 (c), sub. 2, and see *ante*, p. 208).

3. Committee
rooms in
excess of
number
allowed.

The acts which are illegal practices when committed by the candidate, and which avoid the election (M.E.C.I.P.A. s. 8, sub. 2) are also three in number, viz. :—

ILLEGAL
PRACTICES BY
CANDIDATE.

1. Voting when prohibited by statute, or knowingly inducing, or procuring, any person to vote who is so prohibited from voting (M.E.C.I.P.A. s. 6, sub-ss. 1, 3).

1. Voting,
etc., when
prohibited.

2. Knowingly publishing a false statement of the withdrawal of a candidate, for the purpose of promoting or

2. False
statement of
withdrawal.

CHAP. XV. — procuring the election of another candidate (M.E.C.I.P.A. s. 6, sub-ss. 2, 3).

3. Omitting printer's name on placards. 3. Printing, publishing, or posting, or causing to be printed, published, or posted, any bill, placard, or poster, having reference to an election, which does not bear upon its face the name and address of the printer and publisher (M.E.C.I.P.A. s. 14, and see *ante*, p. 228).

ILLEGAL PRACTICES BY WHOMSOEVER COMMITTED. — The acts which are illegal practices *ab initio*, and by whomsoever committed, and which render the offender liable to the fine and incapacities above mentioned (p. 324), are five in number, viz. :—

1—3. The three offences mentioned under the first heading of “Illegal practices by candidate or any agent” (*ante*, p. 325).

4, 5. The first and second offences mentioned under the second heading of “Illegal practices by candidate,” (*ante*, p. 325).

II.—ILLEGAL PAYMENT, EMPLOYMENT AND HIRING.

Definition and consequences. An illegal payment, employment, or hiring is also an offence created by the C.I.P.P.A. and continued by the M.E.C.I.P.A. It does not avoid the election, unless the offender is the candidate, in which case it becomes an illegal practice (M.E.C.I.P.A. s. 17, sub. 2), and as such avoids the seat (*ib.* s. 8, sub. 2); or unless it has so extensively prevailed that it may be reasonably supposed to have affected the result of the election (*ib.* s. 18). It avoids the vote (*ib.* s. 22), and renders the offender liable to a fine of £100 (*ib.* s. 17, sub. 1; and see further as to this fine, Election Agent, p. 472); but does not affect his franchise or eligibility.

ILLEGAL PAYMENTS. — The following are illegal payments :—

1. Providing money for illegal payments. 1. Knowingly providing money for any payment prohibited by the Act, or for replacing any money so expended, except where the same may have been previously allowed by the High Court to be an exception from the Act (M.E.C.I.P.A. ss. 9, 20).

2. Corrupt withdrawal of candidate. 2. Corruptly inducing, or procuring, any candidate to withdraw in consideration of any payment or promise of payment, and the withdrawing of any candidate in pursuance of any such inducement or procurement (M.E.C.I.P.A. s. 11).

3. Paying, etc., for music, torches, flags, etc. 3. Making, or knowingly receiving, a payment, or

making or knowingly being party to a contract for payment, for the purpose of procuring or promoting a candidate's election, for bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction, unless an exception be allowed (M.E.C.I.P.A. s. 12, sub-ss. 1, 2 ; and see s. 15, and see *ante*, p. 220).

CHAP. XV.

ILLEGAL
EMPLOY-
MENT.

The following is an illegal employment :—

1. Engaging or employing for payment, or promise of payment, any person, or being so engaged or employed, knowing that the same is contrary to law, for the purpose of promoting or procuring the election of a candidate, in any capacity whatever, except those authorized by the Act, and except so far as payment is authorized by the Act, and subject to any exception that may be allowed (M.E.C.I.P.A. ss. 13, 20, and see *Stepney*, 4 O'M. & H. 52). "A person so engaged could not relieve himself from the consequences by merely pleading ignorance of the law ; he would have to show that he was ignorant of the facts which made his engagement unlawful" (Gorst, 39). An offer of refreshment to volunteer workers, if accepted and acted upon by them is an engagement or employment, and the refreshment so promised or given is payment within the above section (*Barrow-in-Furness*, 4 O'M. & H. 78).

1. Employing,
etc., persons,
for unautho-
rized pur-
poses or
remunera-
tion.

ILLEGAL
HIRING.

The following are illegal hirings :—

1. Knowingly letting or hiring, lending or borrowing, employing or using, for the conveyance of electors to or from the poll, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal kept or used to let out for hire (M.E.C.I.P.A. s. 10, sub-ss. 1, 2 ; *Buckrose*, 4 O'M. & H. 117 ; and see *ante*, p. 232). But this does not extend to a carriage, horse, or other animal let to, or hired, employed, or used by an elector, or by several electors at their joint cost, for the purpose of his or their being conveyed to or from the poll (M.E.C.I.P.A. s. 10, sub. 3 ; and see *ante*, p. 235).

1. Letting,
etc., hackney
carriages,
etc., to convey
electors to the
poll.

2. Hiring, or using as a committee room, any prohibited premises, and letting any such premises knowing that the same are to be so used (M.E.C.I.P.A. s. 16 ; *Buckrose*, 4 O'M. & H. 113, 114, 115 ; and see *ante*, p. 208).

2. Hiring,
etc., pro-
hibited
premises for
committee
room.

The following offence subjects the offender (not being the candidate) to a fine of £100 (M.E.C.I.P.A. s. 14), and, if committed by the candidate is an illegal practice (*ib.*). It is not (*ex parte De Wette*, 5 Times L. R. 173),

UNCLASSI-
FIED
OFFENCES.

CHAP. XV. possibly by an oversight, denominated an illegal payment, employment, or hiring :—

Printing, etc., Printing, publishing, or posting, or causing to be
election printed, published, or posted, any bill, placard, or poster
placard, etc., having reference to an election, which does not bear
without printer's, etc., upon its face the name and address of the printer and
name, etc. publisher (M.E.C.I.P.A. s. 14 ; and see *ante*, p. 228).

CHAPTER XVI.

CHAP. XVI.

RELIEF FROM ILLEGAL PRACTICES, ETC.

CIRCUMSTANCES UNDER WHICH APPLICATION MAY BE MADE	PAGE	HEARING	PAGE
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The M.E.C.I.P.A., as adapted and altered by the G. O. r. 27, R.O. r. 26., and U.O. r. 26, is applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3.

The severity of many of the provisions of the M.E.C.I.P.A. has been moderated by the power which the Act gives to the courts of awarding relief, in many cases, to an innocent candidate, agent, or other person, against the consequences of acts and omissions in which they have not participated, or which are due merely to inadvertence. There is no power to grant relief against an act of bribery or personation, but with these exceptions this power of awarding relief extends to all classes of election offences.

The relief which can be granted on the trial of an election petition in respect of trivial acts of treating, undue influence, or illegal practices, is dealt with in the next chapter, *post*, p. 345. The present chapter is confined to those cases in which the dispensing power may be exercised before an election petition is filed, or independently of any such petition.

CHAP. XVI.
 —
 CIRCUM-
 STANCES
 UNDER
 WHICH
 APPLICATION
 MAY BE
 MADE.
 —

Where any act or omission of a candidate at an election of a guardian or district councillor, or of any agent or other person, would, by reason of being in contravention of the M.E.C.I.P.A., be but for s. 20 an illegal practice, payment, employment, or hiring, then if the act or omission arose from inadvertence, accidental miscalculation, or some other reasonable cause of a like nature, and not from any want of good faith, an order may be granted by the High Court or the election court, allowing such act or omission to be an exception from the provisions of the Act, and thereupon such candidate, agent, or person, shall not be subject to any of the consequences of the said act or omission (M.E.C.I.P.A. s. 20). It will be observed that this section refers exclusively to illegal practices, while s. 19 (see *post*, p. 345) extends to certain corrupt practices, that this section deals with the acts of the candidate as well of his agents and other persons, while s. 19 is confined to the acts of the candidate's agents (*Hexham*, November 24th, 1892). See also as to the effect of an order made hereunder, *post*, p. 336.

To whom
made.

The application may be made to the High Court or the election court (M.E.C.I.P.A. s. 20), and if made to the High Court, it may be made to an election judge sitting in court or at chambers, but not to a master, nor to a judge who is not an election judge (*ib.* s. 30; C.I.P.P.A., s. 56, sub. 1). It is usually made direct to the divisional court, but in one instance has been made to an election judge in chambers (*Chelsea*, 2 Times L. R. 374).

By whom.

The application may be made by the candidate, or other agent or person, endangered by the act or omission in question (see M.E.C.I.P.A. s. 20); but an application cannot be made by a printer or publisher of a bill, placard, or poster, for relief against the consequences of omitting to print, etc., his name, etc., thereon, as his offence is not an illegal practice, etc. (*ex parte De Wette*, 5 Times L. R. 173).

When to be
made.

The application must be made promptly after discovery of the act or omission, or it may be refused on the ground of delay (*re Pembroke County Council Election*, 5 Times L. R. 272, 321); and if made as soon as the act or omission is discovered, or immediately after the declaration of the result of the election, it may save a successful candidate from an election petition. If

made by or on behalf of a successful candidate, and if the act or omission amounts to an illegal practice, the application must be made previously to the report of the election court, or his seat will be gone, and the incapacities attaching to an illegal practice will have been incurred (M.E.C.I.P.A. s. 8, sub. 2). CHAP. XVI.
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The application is made by motion to the court, or by application to the judge in chambers, and is, in either case, made *ex parte*, after notice. If proper notice has been given, and if the evidence is sufficient to bring the case within the Act, the court disposes of the application at once; but if such is not the case, it usually directs that the application be renewed after proper notice has been given (*South Shropshire*, 34 W. R. 352), or further evidence has been obtained (*re Terry & Wharton*, 1 Times L. R. 183). How made.

Such notice of the application must be given in the parish, united parishes, urban district, or ward, for which the election was held, as to the court seems fit (M.E.C.I.P.A. s. 20 (c); for a form, see Election Agent, No. 83, p. 683). It is usually given to each of the candidates, to the returning officer, and to the constituency, by advertisement (*South Shropshire*, 34 W. R. 352; *re Hart*, 2 Times L. R. 24) and by conspicuous posters throughout the constituency (*re Terry & Wharton*, 1 Times L. R. 183; *re Election of County Councillors*, 5 *ib.* 173). If the application is to be made during the trial of an election petition, notice given by counsel orally in open court has in one case been held to be sufficient (*Norwich*, 4 O'M. & H. 89), but the present practice is to give all the usual notices and advertisements (*Hexham* 22nd, 24th November, 1892). The notice must be given a sufficient time before the application is intended to be made (*re Election of County Councillors*, 5 Times L. R. 195); it must give sufficient information as to the relief sought (*re Graveson*, *Times* newspaper, 31st January, 1889), and must be clear and explicit, and not too wide, or the cost of opposition, or of an adjournment, may be imposed on the applicant (*re Keatinge & Wynn*, 5 Times L. R. 195). It need not be served on the attorney-general (*ex parte Lenanton*, 53 J. P. 263). In urgent cases, leave to give short notice of motion may sometimes be obtained (*St. Anne's-on-the-Sea*, 25th March, 1891, not reported). Notice.

The affidavits or oral evidence in support of the appli- Evidence.

CHAP. XVI. cation must show—(a) the nature of the act or omission, and that it amounts to an illegal practice, payment, employment, or hiring; (b) that such act or omission arose from inadvertence, or accidental miscalculation, or some other reasonable cause of a like nature, and not from any want of good faith; (c) that sufficient notice of the application has been given in the constituency, and (d) that it is just that the candidate, and other agent and person, or any of them, should not be subject to the consequences of such act or omission (see M.E.C.I.P.A. s. 20). The evidence must bring the case clearly within the Act, or the relief will not be granted (*ex parte Clark*, 52 L. T. 260); and the applicant should show that he has done all that he can to cancel or withdraw the illegal act, and to repair any mischief that may have been caused thereby (*re Election of County Councillors*, 5 Times L. R. 173; *ex parte Vickerman*, *ib.* 220); and that the illegal act was done on no considerable scale, and was in no way likely to influence the election (*Dunchurch*, 5 Times L. R. 183; *ex parte Measom*, *ib.* 221; and see *Stepney*, 4 O'M. & H. 182). The question of whether any offence has or has not been committed must be determined, if at all, on the trial of an election petition, or on any proceeding to enforce the penalty; it will not be decided on the application for relief, which proceeds on the assumption that an offence has been committed.

“Inadvertence.”

If “inadvertence” be the foundation of the application, this must be satisfactorily explained and established (*South West Essex*, 2 Times L. R. 338). “Inadvertence” is a lack of heedfulness or attentiveness, an oversight, mistake, or fault, which proceeds from negligence of thought (Webster's Dictionary); an act of negligence or carelessness where the circumstances show an absence of bad faith (*re Election of County Councillors*, 5 Times L. R. 173); it is an occasional act which must not be too often repeated, or it becomes inattention (Crabb's Synonyms); but to act on a particular view of the law (*South West Essex*, 2 Times L. R. 388; but see *Stepney*, 4 O'M. & H. 53, *per* Denman, J.), or on an erroneous view of the law (*ex parte Montefiore*, 5 Times L. R. 78; *South West Essex*, 2 *ib.* 388), or in mere ignorance of the law (*ex parte Walker*, 37 W. R. 293, *Walsall*, 4 O'M. & H. 128; but see *Stepney*, *ib.* 182), is not inadvertence. Nevertheless, the commission of an act which is only discovered to be an illegal practice, etc., on the close

study of a novel Act of parliament, difficult to construe, and not yet generally known, may be excused on the ground of inadvertence (*Stepney*, 4 O'M. & H. 52; *ex parte Walker*, 22 Q. B. D. 384; *re Election of County Councillors*, 5 Times L. R. 173). Whether the applicant has or has not read the Act of parliament does not determine the question of whether the case is one of inadvertence (*ex parte Thomas*, 60 L. T. 728); but if he has been misled by an expert in election law (*ex parte Measom*, 5 Times L. R. 221; *ex parte Layton & Woodbridge*, *ib.* 198), or by a text-book on election law (*ex parte Birley*, *ib.* 220), he may be excused on the ground of inadvertence.

The fact that the contest was severe is not a ground for allowing payments in excess of any maximum (*ex parte Ayrtton*, 2 Times L. R. 215). “Accidental miscalculation.”

Under the words “other reasonable cause of a like nature,” a candidate, whose express instructions had been disregarded by his election agent, has been excused in respect of an excessive expenditure beyond the authorized maximum, and of an excessive employment of paid agents, the election agent being left to the operation of the law (*ex parte Stopes*, *Times* newspaper, 5th March, 1889). “Other reasonable cause of a like nature.”

A candidate (*ex parte Wilks*, 16 Q. B. D. 114; *Chelsea*, 2 Times L. R. 374), the returning officer (*South West Essex*, 2 Times L. R. 388; *Wigan*, *ib.* 159), an elector (*Wigan*, 2 Times L. R. 159; *ex parte Hutchinson*, 5 Times L. R. 136), or a committee of electors (*ex parte Hobbs*, *ib.* 272), may appear to consent or oppose; and, if the opposition is founded on facts not appearing on the evidence filed in support of the application, the parties opposing should be prepared with proper affidavits of such facts (see *ex parte Wilks*, 16 Q. B. D. 114). A returning officer should not, however, appear unless he has some real cause to show, and if he does appear unnecessarily, the court will refuse to give him his costs (*ex parte Stephens*, *Times* newspaper, 2nd February, 1889). HEARING
—
Parties to be heard.

In considering an application for relief in respect of bills, placards, or posters under M.E.C.I.P.A. s. 14, the court will have some regard to the fact that such documents are of a libellous or scurrilous character (*ex parte De Wette*, 5 Times L. R. 173; *ex parte Fenwick*, *ib.* 221); and if to grant the relief may prejudice the pending

CHAP. XVI. election, the court may, it seems, take that circumstance into account, and may even refuse the application (*ex parte Thomas*, 5 Times L. R. 198, 234; 60 L. T. 728). The court is not bound to grant relief; it is entirely a matter for its discretion (*ex parte Walker*, 22 Q. B. D. 384; *ex parte Thomas*, 60 L. T. 730); and if the evidence is conflicting, it may decline to try the question, and may leave the law to take its course (*ex parte Hobbs*, 5 Times L. R. 272); or it may, by consent, refer it to a barrister to inquire into and report, and to examine the parties and their witnesses on oath (*South Kensington*, Times newspaper, 7th April, 1887).

Election
petition
pending.

If an election petition be pending (*ex parte Wilks*, 16 Q. B. D. 114; *ex parte Evans*, 5 Times L. R. 207), or threatened (*ex parte Hempson*, *ib.* 220; but see *ex parte Stephens*, *ib.* 203), the application may be ordered to stand over until after the trial of the petition, or may be referred to the election court; if a prosecution is threatened or pending, the court will generally decline to interfere (*South West Essex*, 2 Times L. R. 388; *ex parte Hobbs*, 5 *ib.* 272); but may sometimes be induced to do so (*ex parte Clark*, 52 L. T. 260).

Applications
which have
been granted.

Relief has been granted in respect of circulars of thanks ordered by the candidate after the election was over, and paid for by his clerk without authority, instead of through the election agent (*Lincoln*, 25th July, 1884; not reported); in respect of a municipal election meeting held in a prohibited place (*re Terry & Wharton*, 1 Times L. R. 183; *re Hart*, 2 *ib.* 24; *ex parte Hutchinson*, 5 *ib.* 136; *re Election of County Councillors*, *ib.* 73); in respect of placards printed and circulated without the printer's name (*ex parte Clark*, 52 L. T. 260; *ex parte Ives*, 5 Times L. R. 136; *re Election of County Councillors*, *ib.* 173, 195, 198); in respect of expenses for bill posting incurred under special circumstances, and causing the maximum allowance to be exceeded by £97 (*ex parte Ayrtton*, 2 Times L. R. 215); in respect of a placard not bearing the printer's, etc., name, etc., alleged to be a "scurrilous letter," but which the court found was not scurrilous (*ex parte Fenwick*, 5 *ib.* 221; but see *ex parte De Wette*, *ib.* 173); and in respect of various illegal practices which the court found to be trifling and not to have affected the result (*Stepney*, 4 O'M. & H. 182).

Application for relief in respect of the use of more committee rooms than are allowed by the Act has been

made, and would apparently have been granted if the application had been made before an election petition had been presented or threatened (*ex parte Hempson*, 5 Times L. R. 220).

Relief has been granted in respect of the illegal employment, at a parliamentary election, of bill distributors (*Stepney*, 4 O'M. & H. 52); but it has been refused to a sub-agent at a parliamentary election who had voted and had subsequently received payment for his services (*South West Essex*, 2 Times L. R. 388). Relief has also been granted in respect of the illegal employment, at local government elections, of a paid election agent (*ex parte Walker*, 22 Q. B. D. 384; *re Election of County Councillors*, 5 Times L. R. 173, 221), of an excessive number of paid messengers (*Dunchurch*, 5 Times L. R. 183), and of paid canvassers (*ex parte Birley*, *ib.* 220); but in another case of paid canvassers, relief was refused (*ex parte Thomas*, *ib.* 198); on appeal this refusal was reversed (*ib.* 234; 60 L. T. 728), but upon grounds which do not attack the principle of the refusal, and on grounds which would not apply in a future election. The employment of paid canvassers, or of paid agents, for purposes or in capacities not authorized by the C.I.P.P.A., or the M.E.C.I.P.A., being distinctly a violation of the provisions of those Acts, applications for relief against the consequences thereof will in future be scrutinized severely, and it would seem that, as a rule, such applications will be refused, and that very special or exceptional grounds must be shown to entitle the applicant to relief (*ex parte Walker*, 22 Q. B. D. 384; *re Election of County Councillors*, 5 Times L. R. 206; *ex parte Birley*, *ib.* 220; *ex parte Measom*, *ib.* 220; *ex parte Hobbs*, *ib.* 272).

Relief has been refused in respect of a meeting held in a prohibited place, the candidate having previously sought advice and determined to take the risk (*ex parte Montefiore*, 5 Times L. R. 78); and in respect of a libellous placard containing an unjustifiable attack upon the candidate's opponent (*ex parte De Wette*, *ib.* 173; but see *ex parte Fenwick*, *ib.* 221). Permission to pay for a brougham ordered and used by a candidate's clerk without authority, for the purposes of the election, but not for the conveyance of voters to the poll, has also been refused (*Chelsea*, 2 Times L. R. 374).

If the offence was conducted on a considerable scale,

CHAP. XVI. — or was likely to influence the election (*Dunchurch*, 5 Times L. R. 183; *ex parte Meason*, *ib.* 221; and see *Stepney*, 4 O'M. & H. 182); or if the applicant has committed more than one offence (*ex parte Hobbs*, *ib.* 272); or if the applicant fails to satisfy the court that he and his agents had taken all reasonable means to render the election pure and to prevent the commission of illegal practices (*Rochester*, 4 O'M. & H. 160), the application for relief may be refused.

The courts have on many occasions observed that there must be some limit to applications for relief, and that as the law becomes better known they will be less indulgent in granting relief (*ex parte Matthews*, 2 Times L. R. 548; and see *ex parte Clark*, 1 Times L. R. 243; *ex parte Ayrton*, 2 *ib.* 214; *Sudbury Municipal Election*, Times, 14th May, 1887; *ex parte Walker*, 22 Q. B. D. 384; *re Election of County Councillors*, 5 Times L. R. 173; *ex parte Birley*, *ib.* 220; *ex parte Lutwyche*, Times newspaper, 5th March, 1892).

The court cannot relieve a printer, publisher, or person other than a candidate, from the offence of omitting to print the name, etc., of the printer, etc., on any poster, etc., as the offence, when committed by a printer, etc., is not an illegal practice, payment, employment, or hiring (*ex parte De Wette*, 5 Times L. R. 173; and see *ante*, p. 228), and the cases in which relief has been granted to a printer, etc., in respect to such offence (*ex parte Clark*, 52 L. T. 260; *ex parte Ives*, 5 Times L. R. 136) must now be considered as having been decided *per incuriam*.

Order and its effect.

The court, if it deems the evidence sufficient, and the circumstances such that it is just that the candidate, and other agent and person, or any of them, should not be subject to the consequences of the act or omission in question, may make an order allowing the act or omission to be an exception from the provisions of the M.E.C.I.P.A., and thereupon the candidate, agent, or person shall not be subject to any of the consequences under the Act of such act or omission (M.E.C.I.P.A. s. 20). A form of order is given in *ex parte Clark*, 52 L. T. 263. The effect of the order is to wipe out the offence as if it never existed, and so completely that the election court reports that no illegal practices have been committed, the candidate keeps his seat, the offender is relieved from all consequences of his act or omission

(see *Hexham*, 4 O'M. & H. 144), and his vote, if given, is rendered valid (see M.E.C.I.P.A. s. 22). The court in fact finds that the act or omission in question is an inadvertence, or accidental miscalculation, etc., which, unless excused, would amount to an illegal practice, but which, being excused, is by force of the statute declared not to be an illegal practice, and consequently remains simply an inadvertence, or accidental miscalculation, etc. (see *Hexham*, 4 O'M. & H. 144).

The applicant will in general have to bear the costs of his application (*ex parte Walker*, 22 Q. B. D. 384), and may be ordered to pay those of an opposing candidate (*re Election of County Councillors*, 5 Times L. R. 173; *Dunchurch*, *ib.* 183; *ex parte Fenwick*, *ib.* 221; *ex parte Gregory & Frost*, *ib.* 221), especially if the notice given by the applicant be so wide as to justify the opposing candidate in appearing to watch the proceedings (*ex parte Keatinge & Wynn*, *ib.* 195). The applicant may also be ordered to pay the costs of an elector (*ex parte Hutchinson*, *ib.* 136; *Shrewsbury*, *ib.* 160), but as a rule an opposing elector will be left to bear his own costs (*re Election of County Councillors*, *ib.* 173; *Dunchurch*, *ib.* 183). A returning officer will not get his costs if he appears unnecessarily (*ex parte Stephens*, *Times* newspaper, 2nd February, 1889).

There is an appeal from the judge in chambers to the divisional court (*Chelsea*, 2 Times L. R. 374); and thence to the Court of Appeal (*ex parte Walker*, 22 Q. B. D. 384); but the Court of Appeal ought not to interfere with the exercise of the discretion of the court below, unless it is satisfied that there has been a miscarriage of justice (*ib.*; *ex parte Thomas*, 60 L. T. 728). The Court of Appeal may take into consideration any change in the circumstances which has arisen since the decision in the court below (*ex parte Thomas*, 60 L. T. 728).

CHAP. XVI.

Costs.

APPEAL.

ELECTION PETITION AND QUO WARRANTO.

I.—ELECTION PETITION.

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I.—ELECTION PETITION.

The M.C.A. and the M.E.C.I.P.A., as altered and adapted by G.O. rr. 26, 27; R.O. rr. 25, 26, and U.O. rr. 25, 26, are applied to the election of guardians and district councillors by L.G.A. s. 48, sub. 3.

An election of a guardian or district councillor may be questioned by an election petition on the ground—

GROUNDS
FOR PETI-
TION.

- (a.) That the election was wholly avoided by general bribery, treating, undue influence, or personation; or
- (b.) That the election was avoided by corrupt practices, or offences against M.C.A. part IV. committed at the election; or
- (c.) That the person whose election is questioned was at the time of election disqualified; or
- (d.) That he was not duly elected by a majority of lawful votes (M.C.A. s. 87, sub. 1); or
- (e.) That the election was avoided by illegal practices (M.E.C.I.P.A. ss. 8, 25); or
- (f.) That the returning officer's decision of a question arising in respect of a ballot paper was erroneous (B.A. s. 2).

The disallowance by the mayor or returning officer of a nomination paper is also a ground on which an election petition may be presented in respect to the election of a town councillor (M.C.A. sch. III. part II. r. 14), and of a county councillor (L.G.A. s. 75); but there is no provision for raising objections to the nomination paper of a candidate at an election of guardians or district councillors, or for questioning the disallowance by the returning officer of a nomination paper at any such election; and, *semble*, the improper disallowance of a nomination paper at any such election can only be questioned by presenting an election petition complaining of the conduct of the returning officer (M.C.A. s. 88, sub. 2), or, perhaps, by *quo warranto* information against the successful guardian or councillor (see *post*, pp. 348, 350). A petition complaining of the conduct of a returning officer must allege negligence, incompetence, or culpable mistake (see *Warrington*, 1 O'M. & H. 42; *Hackney*, 2 *ib* 77), or gross partiality or misconduct (see *Canterbury*, K. & O. 131)—a *bonâ fide*, though erroneous, decision upon a point of law (*e.g.* upon the

CHAP. XVII. invalidity of a nomination paper) is not a complaint of the conduct of a returning officer within the meaning of M.C.A. s. 88 (see *Harmon v. Park*, 6 Q. B. D. 323).

TIME FOR PRESENTATION. An election petition presented to the High Court of Justice on any ground other than that of illegal practices shall be presented within twenty-one days after the day

Corrupt practices. on which the election was held, except that if it complains of corrupt practices, and specifically alleges that a payment of money or other reward has been

After return. made or promised since the election, by a person elected at the election, or on his account, or with his privity, in pursuance or furtherance of such corrupt practices, the petition may be presented within twenty-eight days after the date of such payment or promise (M.C.A. s. 88, sub. 4; and see *Kidderminster*, 2 O'M. & H. 172; *Galway*, 1 *ib.* 304).

Illegal practices. Where the petition alleges illegal practices, it may be presented at any time within six weeks after the day of election (G.O. r. 27, par. 2; R.O. r. 26, par. 2; U.O. r. 26, par. 5), *i.e.* as to the elections in the year 1894, within six weeks after the day of election fixed by or under

After return. G.O. r. 2; R.O. r. 2; and U.O. r. 2. If the election petition specifically alleges a payment of money, or other act made or done since the election by the candidate elected at such election, or by an agent of the candidate, or with the privity of the candidate, in pursuance or in furtherance of such illegal practice, the petition may be presented at any time within twenty-eight days after the date of such payment or other act (*ib.* M.E.C.I.P.A. s. 25, sub. 2). For forms of election petition, see Election Agent, Nos. 69, 70, pp. 661, 664.

Time, how reckoned. In reckoning the above times, Sunday, Christmas Day, Good Friday, Monday and Tuesday in Easter week, a bank holiday, and any day set apart for a public fast or public thanksgiving, are included; and if the last day for presenting the petition falls on any such day, it must, it is submitted, be presented on the previous day, not being any of the above-specified days (see *ante*, p. 315).

Amendment after time for presentation. A petition cannot be amended by the introduction of a substantially new charge after the time for presenting a petition in respect of such charge has expired (*Maudslayi v. Lowley*, L. R. 9 C. P. 165; *Aldridge v. Hurst*, 1 C. P. D. 410).

The provision that every election of a town councillor

or county councillor, not called in question within twelve months after the election, shall be deemed to have been to all intents a good and valid election (M.C.A. s. 73; L.G.A. s. 75), is not applied to the election of a guardian or district councillor; and this provision does not apply, it seems, to the election of a person whose status is one of absolute incapacity for election, as in certain cases is the status of a woman (*De Souza v. Cobden* (1891) 1 Q. B. 687).

The petition must be served within five days after it is presented (M.C.A. s. 89, sub. 3) exclusive of the day of presentation (Rules, 1883, r. 13). If the petition is not so served, it drops; but in case of difficulty in effecting personal service, substituted service may be ordered (*ib. rr. 14, 15*). For a form of affidavit of service, see Election Agent, No. 65, p. 660.

At the time of the presentation of the petition, or within three days afterwards, security for costs to such an amount, not exceeding £500, as may be ordered, shall be given, either by a deposit of money or by recognizance, by not more than four sureties, or partly in one way and partly in the other (M.C.A. s. 89, sub. 2). It is sufficient if the recognizance be entered into by one surety only (*Preece v. Pulley*, 49 L. J. C. P. 686). The recognizance is not liable to any stamp duty (*Athlone*, 19 L. T. 530). The deposit of money by way of security, is by payment into the Bank of England (Rules, 1883, r. 16).

Such particulars of the allegations in the petition as may be necessary to prevent surprise and unnecessary expense, and to insure a fair and effectual trial, may be ordered (Rules, 1883, r. 6). These particulars have been ordered to be delivered three days (*Beal v. Smith*, L. R. 4 C. P. 145), seven days (*Green v. Hall*, W. N. (1880) p. 146), and fourteen days, before the trial. But in the latest cases they have been ordered to be delivered seven days before the trial (*Lenham v. Barber*, 10 Q. B. D. 293; *acc. Clark v. Wallond*, 52 L. J. Q. B. 321), and this may, therefore, be considered to be the present practice in the absence of special circumstances. These days are reckoned exclusively of the day of delivery, and of Sunday, Christmas Day, Good Friday, and any day set apart for a public fast or public thanksgiving (Rules, 1883, r. 37). The particulars are sometimes ordered to be delivered "so far as known" (*Maude v. Lowley*, L. R.

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SERVICE.

SECURITY
FOR COSTS.PARTICU-
LARS.

CHAP. XVII. 9 C. P. 165), but these words are unnecessary, as the person who gives the particulars can only give them so far as is known; and as to insert these words might be taken as a warrant for unduly limiting the particulars, the judge should refuse to insert them (*Lenham v. Barber*, 10 Q. B. D. 293). For a form of summons for particulars, see Election Agent, No. 83, p. 676, of order for particulars, see *ib.* No. 75, p. 668, and of the particulars, see *ib.* No. 76, p. 669.

Where general charges are made.

Where the petition contains general charges of corrupt and illegal practices, particulars of such charges will be ordered to be delivered in four days (*Salford*, 19 L. T. 500), or five days, from the date of the order (*Bradford*, *ib.* 573). A similar order will be made where the petition contains personal charges against the returning officer (*Warrington*, *ib.* 572).

SCRUTINY AND RECRIMINATORY LISTS.

Scrutiny lists, and lists of objections where the respondent intends to recriminate, are to be delivered six days before the trial (Rules, 1883, rr. 7, 8), and the court has no power to admit lists or evidence after this period of time has elapsed (*Nield v. Batty*, L. R. 9 C. P. 104). For forms of these lists, see Election Agent, Nos. 80, 81, p. 671.

SPECIAL CASE.

A special case may be stated where the case raised by the petition can be conveniently so stated (M.C.A. s. 93, sub. 7), as where the petition raises a question of law and the facts are not in dispute (*Woodward v. Sarsons*, L. R. 10 C. P. 734; *Burgoyne v. Collins*, 8 Q. B. D. 450). And, if the questions of law can be conveniently severed from the questions of fact, the former may be decided by special case, and the latter left for trial in the usual way (*Hereford*, 19 L. T. 703).

WITNESSES.

How summoned.

Witnesses are subpoenaed and sworn in the usual manner (M.C.A. s. 94, sub. 1), and the election court may, by order, compel the attendance of a witness, under penalty of a contempt of court (*ib.* s. 94, sub. 2); for a form of subpoena, see Election Agent, No. 82, p. 675. If a witness cannot be served with a subpoena, the court will sometimes issue its order to compel the witness's attendance (*Waterford*, 2 O'M. & H. 3); but not, as a rule, unless the witness has been served with a subpoena (*Norwich*, i. *ib.* 8). The court has no power to issue a warrant for the apprehension of a witness (*Chester*, 44 L. T. 286). If a witness absconds, the court will, if the witness's evidence be necessary, adjourn the trial,

even if it be for six months (*Stroud*, 2 O'M. & H. 108). CHAP. XVII.

A witness cannot refuse to answer any question relating to any offence at, or connected with, an election, on the ground that the answer may criminate or tend to criminate himself, or on the ground of privilege; but a witness who truly answers all questions is entitled to a certificate of indemnity, and his answers are not, except in a prosecution for perjury, in any proceeding, civil or criminal, admissible in evidence against him (M.E.C.I.P.A. s. 30; C.I.P.P.A. s. 59, sub. 1). But this certificate does not relieve the witness from any incapacity or from any proceeding to enforce such incapacity (M.E.C.I.P.A. s. 30; C.I.P.P.A. s. 59, sub. 3).

Obligation to answer.

Certificate of indemnity.

The expenses of witnesses may be allowed according to the scale applicable to trials at the assizes (M.C.A. s. 94, sub. 9), and may be disallowed if the court is dissatisfied with the witness, or with the manner in which he gives his evidence. The amount of a witness's expenses may be ascertained and certified by the registrar (Rules, 1883, r. 53); but his allowance is only as between the witness and the party who subpoenaed him, and is not conclusive as between the parties to the petition (*McLaren v. Home*, 7 Q. B. D. 477).

Expenses.

The trial proceeds as far as practicable *de die in diem* (M.E.C.I.P.A. s. 27), before a barrister as commissioner (M.C.A. s. 92, sub. 1). A petition relating to the election of a guardian, or rural district councillor, for a parish, may be tried at any place within the poor law union in which the parish is situate (G.O. r. 27, par. 6; R.O. r. 26, par. 6), and the place of trial of a petition relating to the election of an urban district councillor shall be within the urban district (M.C.A. s. 93, sub. 2; U.O. r. 26, par. 2). But if, in any case, special circumstances exist which render it desirable that the petition should be tried elsewhere, the court may appoint such other place for the trial as shall appear most convenient (M.C.A. s. 93, sub. 2). If intimidation and outrages were practised before and during the election, and after the presentation of the petition, the place of trial may be changed (*Sligo*, 1 O'M. & H. 300); but something more than mere inconvenience must be shown before the court will change the place of trial, and thus depart from the clear intention of the Act that the petition should be tried in

TRIAL.

CHAP. XVII. the union or urban district where the election took place (*Collins v. Price*, 5 C. P. D. 544).

Reserving questions of law. A question of law as to the admissibility of evidence or otherwise may be reserved for the High Court (M.C.A. s. 93, sub. 8), and unless this be done, there is no mode of reviewing the ruling of the election court.

Attendance of public prosecutor. The public prosecutor attends the trial and obeys any directions given by the court with respect to the summoning and examination of any witness, and the prosecution of offenders, and with respect to any person proposed to be reported guilty of any corrupt or illegal practice (M.E.C.I.P.A. s. 28, sub. 1. He may also summon, and with leave examine, any witness (*ib.* sub. 2), and may prosecute offenders (*ib.* sub. 3).

Certificate of findings to High Court. At the conclusion of the trial the court determines whether the respondent, or any other and what person, was duly elected, or whether the election was void, and forthwith certifies in writing such determination to the High Court (M.C.A. s. 93, sub. 4). This determination is final to all intents and purposes (*ib.*; *Waygood v. James*, L. R. 4 C. P. 361; and see *Stevens v. Tillet*, L. R. 6 C. P. 147).

Certificate of High Court to returning officer. A copy of this certificate is certified by the High Court, under the hands of two or more judges thereof, to the returning officer (M.C.A. s. 93, sub. 13; G.O. r. 26, par. 2; R.O. r. 25, par. 2; U.O. r. 25, par. 2); and if the candidate is unseated, then from the time when this certificate is certified to the returning officer the acts of the councillor are invalidated (M.C.A. s. 102). If the candidate has been unseated, and no other person has been declared elected in his place, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy (*ib.* s. 103), as to which, see *ante*, p. 156.

There is no appeal from the decision of the election court (*Preece v. Harding*, 24 Q. B. D. 110; *R. v. Mansel Jones*, 10 Times L. R. 515); and no appeal from the High Court to the Court of Appeal, except by special leave (44 & 45 Vict. c. 68, s. 14); and even if an appeal be brought, there is no provision which stays proceedings, or stays the effect of the above certificate and statutory provisions.

REPORTS.

Corrupt and illegal practices.

The court also reports to the High Court—

(a.) Whether any corrupt or illegal practice or offence against part IV. of the M.C.A. has, or has not,

been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of such corrupt practice or offence.

- (b.) The names of all persons (if any) who have been proved to have been guilty of any corrupt practice or offence.
- (c.) Whether any corrupt practices have, or whether there is any reason to believe that corrupt practices have, extensively prevailed at the election (M.C.A. s. 93, sub. 5 ; M.E.C.I.P.A. s. 8, sub. 2).

This report is not final, as is the certificate (*Stevens v. Tillet*, L. R. 6 C. P. 147). It is laid before the attorney-general with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity (M.E.C.I.P.A. s. 30 ; C.I.P.P.A. s. 60).

The election court may also make a special report to the High Court as to any matters arising in the course of the trial, an account of which ought, in the judgment of the election court, to be submitted to the High Court (M.C.A. s. 93, sub. 6).

The election court may also make a report—(1) exonerating the candidate from the consequences of treating, undue influence, or illegal practices by agents (M.E.C.I.P.A. s. 19) ; and (2) excepting an innocent act, amounting to an illegal practice, payment, employment, or hiring, from the provisions of the M.E.C.I.P.A., and relieving the candidate, agent, or person from the consequences thereof (*ib.* s. 20).

With regard to the first of the above-named heads, viz. the exonerating the candidate from the consequences of treating, undue influence, or illegal practices, the election court has no power to relieve against personal offences by the candidate, or against bribery, or personation by agents ; but where it finds that the candidate has, by his agent or agents, been guilty of treating, and undue influence, and illegal practices, or any of such offences, the election will, nevertheless, be upheld, and the candidate will not be subjected to any incapacity, if it be proved—

- (a.) That no corrupt or illegal practice was committed by the candidate, or with his knowledge and consent ; and that the offences were committed

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without the sanction *or* connivance of such candidate ; *and*

- (b.) That all reasonable means for preventing the commission of corrupt and illegal practices were taken by and on behalf of the candidate ; *and*
- (c.) That the said offences were of a trivial, unimportant, and limited character ; *and*
- (d.) That in all other respects the election was free from any corrupt or illegal practice on the part of such candidate, and of his agents (M.E.C.I.P.A., s. 19).

If these matters are fully proved, the election court has, apparently, no discretion, but must uphold the election. But the court will refuse to make this report where the court is not satisfied that the candidate and his agents had taken all reasonable means to render the election pure and free from corruption, and to prevent the commission of corrupt and illegal acts (*Rochester*, 4 O'M. & H. 160).

As to the second of the above-named heads, see *ante*, p. 330.

ABATEMENT
OF PETITION.

An election petition abates on the death of a sole petitioner, or of the survivor of several petitioners (M.C.A. s. 96, sub. 1), but not necessarily on the death of a respondent, as another person may be admitted to defend the petition in his place (*ib.* s. 97, sub. 1). If no such petitioner is admitted, the petition drops.

WITH-
DRAWAL OF
PETITION.Application
and affidavits.

An application to withdraw an election petition can only be made with the consent of all the petitioners (M.C.A. s. 95, sub. 8). It must be supported by affidavits by all the parties to the petition and their solicitors (and agents ; M.E.C.I.P.A. s. 26, sub. 8), but the High Court may, on cause shown, dispense with the affidavit of any particular person (*ib.* s. 26, sub. 1). Copies of these affidavits must be delivered to the public prosecutor a reasonable time before the application for withdrawal is heard (*ib.* sub. 5) ; and notice of the application to withdraw must be given in the constituency (M.C.A. s. 95, sub. 2). For a form of affidavit, see Election Agent, No. 67, p. 661, and of the notice, see *ib.*, No. 74, p. 667.

Notice.

Hearing.

The application cannot be heard until at least a week after the notice of the intention to apply has been given to the master (Rules, 1883, r. 62) ; the public prosecutor

may intervene and adduce evidence (M.E.C.I.P.A. s. 26, CHAP. XVII. sub. 5); and any person who might have been a petitioner may apply to be substituted for the petitioner who is desirous of withdrawing (M.C.A. s. 96, sub. 3).

A withdrawal in consideration of any payment, or of the withdrawal of any other petition, or that the seat shall be vacated, is a misdemeanor, and may subject the offender to twelve months' imprisonment, and a fine of £200 (M.E.C.I.P.A. s. 26, sub. 4). And if the withdrawal is induced by any corrupt bargain or consideration, the court may order that the security given by the original petitioner shall remain and be liable to the costs of the substituted petitioner (M.C.A. s. 95, sub. 4). Corrupt withdrawal.

The costs, charges, and expenses of an election petition are in the discretion of the court, but regard is to be had to the disallowance of any which may have been caused by vexatious conduct, unfounded allegations or objections, and to the discouragement of any needless expense, by throwing the same on the parties by whom they have been caused (M.C.A. s. 98, sub. 1). The usual rule is that the costs follow the event. Costs.

Where it appears—(1st) that a *corrupt* practice has not been proved to have been committed by or with the knowledge and consent of the *respondent*, and (2nd) that the *respondent* took all reasonable means to prevent *corrupt* practices being committed on his behalf, the court may make one or more of the following orders:— Where constituency or third parties guilty.

(a.) If it appears that corrupt practices extensively prevailed, the court may order the whole, or part, of the costs to be paid by the constituency.

(b.) If it appears that any person or persons is or are proved to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election in question, the court may, after giving such person or persons an opportunity of being heard by counsel or solicitor, and of examining and cross-examining witnesses, order the whole or part of the costs to be paid by that person, or those persons, or any of them, or, if irrecoverable from such person or persons, by either of the parties to the petition (M.E.C.I.P.A. s. 29, sub. 1).

Where any person appears to the court to have been

CHAP. XVII. guilty of a corrupt or illegal practice, the court may, after giving such person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offence, or to the said person, to be paid by the said person (*ib.* sub. 2).

Taxation. The costs of the petition are taxed as between solicitor and client in an action in the High Court of Justice, and may be recovered as the costs of such an action (M.C.A. s. 98, sub. 2).

For further information as to an election petition, see Election Agent, Chap. XXVIII., p. 498.

II.—QUO WARRANTO.

DEFINITION AND APPLI- CATION.

The writ of quo warranto is in the nature of a writ of right for the king against him who claims or usurps any office, franchise, or liberty, to inquire by what authority he supports his claim, in order to determine the right (3 Black. Comm. 262). It lies also in case of non-user or long neglect of a franchise, or mis-user or abuse of it, and is a writ commanding the defendant to show by what warrant he exercises such a franchise, having never had any grant of it, or having forfeited it by neglect or abuse (*ib.*).

There are several kinds of quo warranto informations, but the only one to be considered here is that relating to a corporate office or franchise.

Leave of the
court neces-
sary.

Any person desiring to prosecute a quo warranto information can now do so by leave of the court (9 Anne, c. 25 (c. 20, Ruff.), s. 4; C.O.R. 46). It is a civil proceeding (47 & 48 Vict. c. 61, s. 15), and cannot be instituted in any case where an election petition is the appropriate remedy (*R. v. Morton*, 8 Times L. R. 50).

Time for
making
application.

An application against any person claiming to hold a corporate office shall not be made after the expiration of twelve months from the time when he became disqualified after election (M.C.A. s. 225, sub. 1). And it must be made promptly, for, if there be unreasonable delay, the court will refuse to grant it, even though the application be made within the twelve months (*R. v. Hodson*, 4 Q. B. 648 n.; *ex parte Birkbeck*, L. R. 9 Q. B. 256; *R. v. Preece*, 5 Q. B. 94). The provision that an election of a town councillor or of a county councillor not called in question

within twelve months after the election shall be deemed to have been to all intents a good and valid election (M.C.A. s. 73), is not applied to the election of a guardian or district councillor (see *ante*, p. 340).

The office must be of a public nature and a substantial office, and not merely the function or employment of a deputy or servant held at the will and pleasure of others (*Darley v. The Queen*, 12 Cl. & F. 541, 542). Therefore, quo warranto does not lie in respect of the offices of clerk to county justices (*R. v. Fox*, 8 E. & B. 399); clerk to a local authority (*ex parte Richards*, 3 Q. B. D. 368); collector of rates (*R. v. Whelan*, 20 L. R. Ir. 461); or county treasurer, if he is dismissible at the pleasure of the county justices (*R. v. Herefordshire, Justices of*, 1 Chit. 700). But it lies where the office of county treasurer is of a permanent nature (*Darley v. The Queen*, 12 Cl. & F. 520; and see *R. v. Hampton*, 6 B. & S. 931); and in respect of the office of clerk of the peace (*R. v. Hayward*, 2 B. & S. 585; but see *R. v. Russell*, 10 B. & S. 91); and of vestryman under the Metropolis Management Act, 1855 (*R. v. Soutter* (1891) 1 Q. B. 57).

The office must be full *de facto*; i.e. there must have been a real and not merely a colourable election, and the person must have been admitted to the office (*R. v. Colchester, Mayor of*, 2 T. R. 259; *R. v. Oxford, Mayor of*, 6 A. & E. 349; *Frost v. Chester, Mayor of*, 5 E. & B. 531; *R. v. Winchester, Mayor of*, 7 A. & E. 215; *R. v. Slatter*, 11 A. & E. 505). If the election was merely colourable and no real election, the office is not full *de facto*, and the remedy is by mandamus, and not by quo warranto (*R. v. Cambridge*, 4 Burr. 2010; *R. v. Bankes*, 3 Burr. 1454; *R. v. Oxford, Mayor, etc. of*, 6 A. & E. 349); *R. v. Leeds, Mayor, etc. of*, 11 A. & E. 512). A mere claim to the office is insufficient, there must be a user as well as a claim (*R. v. Whitwell*, 5 T. R. 85); nor is it sufficient that the person has tendered himself to be sworn, if he has not been sworn (*ib.*); or has allowed his name to remain on the burgess roll after notice of objection to his qualification (*R. v. Armstrong*, 25 L. J. Q. B. 238). But, if actual user is proved, it is unnecessary to prove also a formal acceptance (*R. v. Quayle*, 11 A. & E. 508).

The granting of a quo warranto is discretionary with the court, even when a good objection to the title is shown (*R. v. Dawes*, 4 Burr. 2022; *R. v. Sargent*, 5 T. R.

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OFFICE.

Must be public and not held at will.

Must be full.

WRIT IS DISCRETIONARY.

CHAP. XVII. 467; *R. v. Parry*, 6 A. & E. 810). And if some other body, such as the board of guardians or district council, is inquiring into the validity of the election, the court may, in its discretion, refuse a quo warranto (see *R. v. Hampton*, 6 B. & S. 932).

Grounds for application.

A quo warranto cannot now be granted on the ground that the holder of an office under the L.G.A. was disqualified at the time of his election, or that he was not duly elected by a majority of lawful votes, as an election of a guardian or district councillor can only be questioned on these grounds by an election petition (M.C.A. s. 87, sub-ss. 1, 2). But it may be granted on the ground that the election itself was invalid by reason of irregularity (*R. v. McGowan*, 11 A. & E. 869; *R. v. Winchester, Mayor of*, 7 A. & E. 215; *R. v. Backhouse*, L. R. 2 Q. B. 16; *R. v. Rippon*, 1 Q. B. D. 217); or that the defendant was not properly admitted to the office (*Mayor of Penryn's Case*, 1 Stra. 582; *R. v. Courtenay*, 9 East, 246; *R. v. Swyer*, 10 B. & C. 486); or that he has subsequently become disqualified (*R. v. Phippen*, 7 A. & E. 966; *R. v. Francis*, 18 Q. B. 526); or that by non-user or long neglect, mis-user or abuse of the office, he is no longer entitled to retain it (*Peter v. Kendall*, 6 B. & C. 703; 3 Black. Comm. 262).

Cesser of office and resignation.

If the defendant has ceased to hold the office, a quo warranto will not in general be granted. But resignation, whether before or after the application, is no answer (*R. v. Blizard*, L. R. 2 Q. B. 55; *R. v. Warlow*, 2 M. & S. 75); and when the object is to try a civil right (*R. v. New Radnor*, 2 Ld. Keny. 498), or where something done in the office may affect the general administration of affairs in the union, parish, or district (*re Harris*, 6 A. & E. at p. 477), a quo warranto will be granted.

Irregularity not affecting result of election.

Again, if the alleged irregularity does not affect the result of the election, the court will refuse its leave to the issue of a quo warranto (*R. v. Ward*, L. R. 8 Q. B. 210; *R. v. Cousins*, *ib.* 216). And quo warranto is not the proper proceeding to question the performance of any judicial, not ministerial, function; *e.g.* an error of a returning officer in his judicial character (*R. v. Collins*, 2 Q. B. D. 30; *R. v. Russell*, 10 B. & S. 91; *R. v. Diplock*, L. R. 4 Q. B. 549).

RELATOR.

Who may le.

The relator need not be a parochial elector if he is an inhabitant of the union or urban district, and subject to

the control of the board of guardians or district council (CHAP. XVII.
(*R. v. Hodge*, 2 B. & A. 344 *n.*; *R. v. Parry*, 6 A. & E. 810; *R. v. Quayle*, 11 A. & E. 508). A mere stranger, "prowling into other men's rights," cannot be a relator (*R. v. Kemp*, 1 East, 46 *n.*; *R. v. Stacey*, 1 T. R. 3); nor can a stranger set in motion a member of a board or council to stir up a question for a purpose entirely unconnected with the concerns of the board of guardians or district council (*R. v. Trevenen*, 2 B. & A. 339; *R. v. Wakelin*, 1 B. & Ad. 50).

The relator must not have concurred or acquiesced in the act of which he comes to the court to complain, or in similar acts at former elections (*R. v. Symmons*, 4 T. R. 223; *R. v. Clarke*, 1 East, 38; *R. v. Lofthouse*, L. R. 1 Q. B. 433), unless he can show that he was ignorant of the objection (*R. v. Slythe*, 6 B. & C. 240; see *R. v. Trevenen*, 2 B. & A. 339). But merely acting with the defendant in local government business is not a valid objection to the relator (*R. v. Benney*, 1 B. & Ad. 684).

Ten days' notice of the application must be given to the person intended to be affected thereby, setting forth the grounds of the application, and accompanied by a copy of the affidavits intended to be used in support of the application (M.C.A. s. 225, sub-ss. 2, 3, 4; C.O.R. 52, 53, 56). The relator must depose that the motion is made at his instance as relator (C.O.R. 54). If the affidavits are insufficient, the court may refuse to allow them to be amended, and may leave the relator to renew his application on better materials (*R. v. Barzey*, 4 M. & S. 253; *R. v. Thirlwin*, 9 L. T. 731). An affidavit by one unobjectionable relator may be aided by the affidavits of others, although the latter are not qualified as relators (*R. v. Brame*, 4 A. & E. 664; *R. v. Parry*, 6 A. & E. 810).

Where the relator is not the real relator, but is put forward and is acting at the instigation of others, and is in low and indigent circumstances, the court may order security for costs to be given (*R. v. Dudley*, 7 Dowl. 700; *R. v. Wakelin*, 1 B. & Ad. 50). But it will not do so where the relator is a member of the board of guardians or district council, and is interested in the matter complained of, even though he be insolvent (*R. v. Wynne*, 2 M. & S. 346).

The costs of the order nisi, and of showing cause, are Costs of order nisi.

CHAP. XVII. — entirely in the discretion of the court, whether the order be discharged or made absolute (C.O.R. 300). In discharging the order nisi, the court may impose the costs on the solicitor, or other parties joining in the application (C.O.R. 56; and see *R. v. Greene*, 4 Q. B. 646). But if the order nisi is discharged on some preliminary objection, the court may refuse to give costs to the defendant (*R. v. Nottingham Journal, Proprietors of*, 9 Dowl. 1042).

RECOGNIZANCE. — If the order nisi is made absolute, the relator must enter into a recognizance in the penalty of £50 to prosecute and to abide by the court's order (C.O.R. 46).

PLEADINGS. — After the order nisi has been made absolute, the information is filed (C.O.R. 46), and is pleaded to as if it were a statement of claim in an action (*ib.* 134). A special case may be stated (C.O.R. 140).

DISCLAIMER. — The defendant may file a disclaimer, upon which judgment of ouster may be entered, and the costs taxed as in judgment by default (C.O.R. 59).

TRIAL. — Notice of trial is given, and the trial and subsequent proceedings take place, as in an action at law.

APPENDIX.

STATUTES AND RULES.

APPENDIX.

NOTE.—*For a list of the Statutes and Rules in this Appendix, see the TABLE OF STATUTES AND RULES CITED, ante, p. xxxiv. Such Table also shows where each of the Statutes and Rules in this Appendix is considered in the text, and thus refers to the pages where any cases decided on any such Statute or Rule may be found.*

*The asterisks (* * *) denote the omission of words which are repealed, obsolete, or irrelevant to the subject-matter of this book.*

2 & 3 WILL. IV. c. 45.

An Act to amend the representation of the people in England and Wales.
[7th June, 1832.]

36. No person shall be entitled to be registered in any year as a voter in the election of a member or members to serve in any future parliament for any city or borough who shall, within twelve calendar months next previous to the last day of July in such year, have received parochial relief or other alms, which by the law of parliament now disqualify from voting in the election of members to serve in parliament.

Disqualification
by receipt of
parochial relief.

4 & 5 WILL. IV. c. 76.

An Act for the amendment and better administration of the laws relating to the poor in England and Wales.
[14th August, 1834.]

38. Where any parishes shall be united by order or with the concurrence of the said commissioners for the administration of the laws for the relief of the poor, a board of guardians of the poor for such union shall be constituted and chosen, and the workhouse or workhouses of such union shall be governed, and the relief of the poor, in such union shall be administered, by such board of guardians; * * * and the said commissioners shall determine the number and prescribe the duties of the guardians to be elected in each union, * * *. And in the event of any vacancy occurring in such board, by the death, removal, or resignation, or refusal or disqualification to act of any elected guardian between the periods of such first and the next and any subsequent annual election, or in case the full number of guardians shall not be duly elected at such subsequent election of guardians for the time being, the other or remaining members of the said board shall continue to act until the next election, or until the completion of the said board, as if no such vacancy had occurred, and as if the number

Constitution,
election, and
powers of boards
of guardians for
unions.

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Election, &c., of
guardians for
single parishes.

of such board were complete. * * * Provided always, that except where otherwise ordered by the said commissioners, and also except for the purpose of consenting to the dissolution or alteration of any union, or any addition thereto, or to the formation of any union for the purposes of settlement or rating, no *ex-officio* or other guardian of any such board as aforesaid shall have power to act in virtue of such office, except as a member and at a meeting of such board; and no act of any such meeting shall be valid unless three members shall be present and concur therein:

39. If the said commissioners shall, by any order under their hands and seal, direct that the administration of the laws for the relief of the poor of any single parish should be governed and administered by a board of guardians, then such board shall be elected and constituted, and authorised and entitled to act, for such single parish in like manner in all respects as is hereinbefore enacted and provided in respect to a board of guardians for united parishes; * * *

5 & 6 WILL. IV. c. 69.

An Act to facilitate the Conveyance of Workhouses and other Property of Parishes, and of Incorporations or Unions of Parishes in England and Wales.
[9th September, 1835.]

Guardians to be
incorporated, &c.

7. The guardians of the poor of every union already formed or which hereafter shall be formed by virtue of the aforesaid Act passed in the fourth and fifth years of the reign of his present Majesty, and of every parish placed under the control of a board of guardians by virtue of the said Act, shall respectively from the day of their first meeting as a board become or be deemed to have become, and they and their successors in office shall for ever continue to be, for all the purposes of this Act, a corporation, by the name of the guardians of the poor of the union (or of the parish of) in the county of ; and as such corporation the said guardians are hereby empowered to accept, take, and hold, for the benefit of such union or parish, any buildings, lands, or hereditaments, goods, effects, or other property, and may use a common seal; and they are further empowered by that name to bring actions, to prefer indictments, and to sue and be sued, and to take or resist all other proceedings for or in relation to any such property, or any bonds, contracts, securities, or instruments given or to be given to them in virtue of their office; and in every such action and indictment relating to any such property it shall be sufficient to lay or state the property to be that of the guardians of the union, or of the parish of ; and in case of any addition to or separation of any parishes from any such union, under the authority of the said Act passed in the fourth and fifth years of the reign of his present Majesty, the board of guardians for the time being shall (notwithstanding such alteration) have and enjoy the same corporate existence, property, and privileges, as board of guardians of the original union would have had and enjoyed, had it remained unaltered.

7 WILL. IV. & 1 VICT. c. 22.

An Act to explain and amend two Acts passed in the last session of Parliament for Marriages, and for registering Births, Deaths, and Marriages in England.

Exemption of
registrars from
serving on juries
and from parochial and corporate offices.

18. Every registrar of births and deaths and every registrar of marriages appointed under the provisions of the said Acts or either of them shall be freed and exempted from * * * every parochial and corporate office whatever.

7 WILL. IV. & 1 VICT. C. 33.

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An Act for the Management of the Post-Office.

[12th July, 1837.]

12. * * * No postmaster-general nor any officer of the post-office shall be compelled to serve as a mayor or sheriff, or in any ecclesiastical or corporate or parochial or other public office or employment * * * any law or custom to the contrary thereof notwithstanding.

Persons employed by the post-office exempt from certain offices.

5 & 6 VICT. C. 57.

An Act . . . for the further amendment of the laws relating to the poor in England.

[30th July, 1842.]

9. If any person put in nomination for the office of guardian tender to the officer conducting the election of guardians his refusal in writing to serve such office, the election of guardians, so far as regards such person, shall be no further proceeded with.

Resignation of candidates.

10. In every case in which no person shall be elected for the office of guardian in any parish at any annual election of guardians, the persons elected for the previous year may continue to act as guardians until the next annual election.

Continuance of guardians in office.

11. The said commissioners may accept the resignation of any person elected as a guardian tendered for any cause which the commissioners may deem reasonable. * * *

Commissioners may accept resignation of any guardian; and may order new elections.

12. In case the full number of guardians shall not be or shall not have been elected at any election of guardians, or in case of any vacancy in any board of guardians by the death, removal, resignation, refusal or disqualification to act of any elected guardian, the other or remaining members of the said board, being not less than three, shall be and be deemed to have been competent to act until the next election, or until the completion of the said board, as if the number of such board were complete; and no acts or proceedings shall be liable to be questioned on account of any failure to elect any guardian or guardians, or on account of any vacancy as aforesaid.

In case of vacancy remaining guardians to act.

13. No defect in the qualification or election of any person acting as a guardian at a board of guardians, the majority of persons assembled at which shall be entitled to act as guardians, shall be deemed to vitiate or make void any proceedings of such board in which he may have taken part.

Defect in qualification, &c., of a guardian not to vitiate proceedings of board.

14. No person, during the time for which he may serve or hold the office of assistant overseer of any parish, nor any paid officer engaged in the administration of the laws for relief of the poor, nor any person who, having been a paid officer, shall have been dismissed within five years previously from such office, under the provisions of the said first-recited Act, shall be capable of serving as a guardian; and no person receiving any fixed salary, or emolument from the poor rates in any parish or union shall be capable of serving as a guardian in such parish or union.

Paid officers and others incapable of serving as guardians.

16. It shall be lawful for every board of guardians constituted under the said first-recited Act to accept, take, and hold on behalf of the union or parish respectively for which they may act, any lands, buildings, goods, effects, or other property as a corporation, and in all cases to sue and be sued in their corporate name.

Corporate powers of board of guardians.

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6 & 7 VICT. C. 18.

An Act to amend the Law for the Registration of Persons entitled to vote, and to define certain Rights of voting, and to regulate certain Proceedings in the Election of Members to serve in Parliament for England and Wales.
[31st May, 1843.]

Agents may be appointed by candidates to detect personation at the time of polling.

85. * * * It shall be lawful for any candidate, at any election of a member or members to serve in Parliament for any county, city, or borough, previous to the time fixed for taking the poll at such election, to nominate and appoint an agent or agents on his behalf to attend at each or any of the booths appointed for taking the poll at such election, for the purpose of detecting personation; and such candidate shall give notice in writing to the returning officer, or his respective deputy, of the name and address of the person or persons so appointed by him to act as agents for such purpose; and thereupon it shall be lawful for every such agent to attend during the time of polling at the booth or booths for which he shall have been so appointed.

Returning officer may order persons charged with personation to be taken into custody.

86. * * * If at the time any person tenders his vote at such election, or after he has voted, and before he leaves the polling booth, any such agent so appointed as aforesaid shall declare to the returning officer, or his respective deputy, presiding therein, that he verily believes, and undertakes to prove, that the said person so voting is not in fact the person in whose name he assumes to vote, or to the like effect, then and in every such case it shall be lawful for the said returning officer, or his said deputy, and he is hereby required, immediately after such person shall have voted, by word of mouth to order any constable or other peace officer to take the said person so voting into his custody, which said order shall be a sufficient warrant and authority to the said constable or peace officer for so doing: Provided always, that nothing herein contained shall be construed or taken to authorize any returning officer, or his deputy, to reject the vote of any person who shall answer in the affirmative the questions authorized by this Act to be put to him at the time of polling, and shall take the oaths or make the affirmations authorized and required of him; but the said returning officer, or his deputy, shall cause the words "protested against for personation," to be placed against the vote of the person so charged with personation when entered in the poll-book.

Vote not to be rejected if questions answered in the affirmative; but note of protest to be entered against vote in poll-book.

Persons charged with personation to be taken before two justices.

87. * * * Every such constable or peace officer shall take the person so in his custody, at the earliest convenient time, before some two justices of the peace acting in and for the county, city, or borough within which the said person shall have so voted as aforesaid. Provided always, that in case the attendance of two such justices as aforesaid cannot be procured within the space of three hours after the close of the poll on the same day on which such person shall have been so taken into custody, it shall be lawful for the said constable or peace officer, and he is hereby required, at the request of such person so in his custody, to take him before any one justice of the peace acting as aforesaid, and such justice is hereby authorized and required to liberate such person on his entering into a recognizance, with one sufficient surety, conditioned to appear before any two such justices as aforesaid, at a time and place to be specified in such recognizance, to answer the said charge; and if no such justice shall be found within four hours after the closing of the said poll then such person shall forthwith be discharged from custody. Provided also, that if in consequence of the absence of such justices as aforesaid, or for any other cause, the said charge cannot be inquired into within the time aforesaid, it shall be lawful nevertheless for any two such justices as aforesaid to inquire into the same on the next or on some other subsequent day, and, if necessary, to issue their warrant for the apprehension of the person so charged.

Bail to be taken or person to be discharged in certain cases;

but charge may be subsequently inquired into, and persons charged may be re-arrested.

88. * * * If on the hearing of the said charge the said two justices shall be satisfied, upon the evidence on oath of not less than two credible witnesses, that the said person so brought before them has knowingly personated and falsely assumed to vote in the name of some other person within the meaning of this Act, and is not in fact the person in whose name he voted, then it shall be lawful for the said two justices to commit the said offender to the gaol of the county, city, or borough within which the offence was committed, to take his trial according to law, and to bind over the witnesses in their respective recognizances to appear and give evidence on such trial as in the case of other misdemeanors.

89. * * * If the said justices shall on the hearing of the said charge be satisfied that the said person so charged with personation is really and in truth the person in whose name he voted, and that the charge of personation has been made against him without reasonable or just cause, or if the agent so declaring as aforesaid, or some one on his behalf, shall not appear to support such charge before the said justices, then it shall be lawful for the said justices, and they are hereby required, to make an order in writing under their hands, on the said agent so declaring as aforesaid, to pay to the said person so falsely charged, if he shall consent to accept the same, any sum not exceeding the sum of ten pounds nor less than five pounds, by way of damages and costs; and if the said sum shall not be paid within twenty-four hours after such order shall have been made, then the same shall be levied, by warrant under the hand and seal of any justice of the peace acting as aforesaid, by distress and sale of the goods and chattels of the said agent; and in case no sufficient goods or chattels of the said agent can be found on which such levy can be made, then the same shall be levied in like manner on the goods and chattels of the candidate by whom such agent was so appointed to act; and in case the said sum shall not be paid or levied in the manner aforesaid, then it shall be lawful for the said person to whom the said sum of money was so ordered to be paid to recover the same from the said agent or candidate, with full costs of suit, in an action of debt to be brought in any one of her Majesty's superior courts of record at Westminster: Provided always, that if the person so falsely charged shall have declared to the said justices his consent to accept such sum as aforesaid by way of damages and costs, and if the whole amount of the sum so ordered to be paid shall have been paid or tendered to such person, in every such case, but not otherwise, the said agent, candidate, and every other person shall be released from all actions or other proceedings, civil or criminal, for or in respect of the said charge and apprehension.

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If justices are satisfied that the person charged has been guilty of personation, they are to commit him for trial.

If justices are satisfied that the charge is unfounded, they are to order compensation;

to be paid by agent or levied by distress on his goods, or those of his principal, or recovered by action of debt.

If party falsely charged accepts compensation, no action to be brought.

21 & 22 VICT. c. 90.

An Act to regulate the Qualifications of Practitioners in Medicine and Surgery. [2nd August, 1858.]

35. Every person who shall be registered under the provisions of this Act shall be exempt, if he shall so desire, from serving * * * all corporate, parochial, ward, hundred, and township offices, * * * and the name of such person shall not be returned in any list of persons liable to serve * * * in any such office as aforesaid.

Registered persons exempted from serving on juries, etc.

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30 & 31 VICT. c. 6.

An Act for the establishment in the Metropolis of Asylums for the Sick, Insane, and other classes of the poor, and of Dispensaries; and for the distribution over the Metropolis of portions of the charge for poor relief; and for other purposes relating to poor relief in the Metropolis.

[29th March, 1867.]

Powers of new board of guardians.

74. The guardians so constituted under this Act, notwithstanding anything in any local Act, shall have the same powers and authorities, and shall be subject to the same orders, regulations, and restrictions as guardians elected under the poor law Acts.

31 & 32 VICT. c. 122.

An Act to make further amendments in the laws for the Relief of the Poor in England and Wales.

[31st July, 1868.]

Poor law board may unite small parishes for the election of guardians.

6. The said board may, by order under seal, add any parish in a union, the population of which parish, according to the census last declared, shall not exceed three hundred, the annual rateable value whereof shall not exceed the average rateable value of the parishes in the same union according to the valuation lists in force for the time being, to some adjoining parish in the same union for the purpose of the election of guardians, and the persons qualified to elect such guardians in either parish shall be qualified to vote at such election for the parishes so united.

33 & 34 VICT. c. 23.

An Act to abolish Forfeitures for Treason and Felony, and to otherwise amend the Law relating thereto.

[4th July, 1870.]

Conviction for treason or felony to be a disqualification for offices, etc.

2. * * * If any person hereafter convicted of treason or felony, for which he shall be sentenced to death, or penal servitude, or any term of imprisonment with hard labour, or exceeding twelve months, shall at the time of such conviction hold any * * * public employment, or * * * any place, office, or emolument in any * * * corporation, * * * such office, benefice, employment, or place shall forthwith become vacant, and such * * *, emolument shall forthwith determine and cease to be payable, unless such person shall receive a free pardon from her Majesty, within two months after such conviction, or before the filling up of such office, benefice, employment, or place if given at a later period; and such person shall become, and (until he shall have suffered the punishment to which he had been sentenced, or such other punishment as by competent authority may be substituted for the same, or shall receive a free pardon from Her Majesty), shall continue thenceforth incapable of holding any * * * public employment, * * * or of exercising any right of suffrage or other parliamentary or municipal franchise whatever within England, Wales or Ireland.

33 & 34 VICT. c. 75.

An Act to provide for public Elementary Education in England and Wales.

[9th August, 1870.]

Corrupt practices.

91. Any person who at the election of any member of a school board or any officer appointed for the purpose of such election is guilty of corrupt practices shall, on conviction, for each offence be liable to a penalty not exceeding two pounds, and be disqualified for the term of six years after

such election from exercising any franchise at any election under this Act, or at any municipal or parliamentary election.

The term corrupt practices in this section includes all bribery, treating, and undue influence which under any Act relating to a parliamentary election renders such election void.

38 & 39 VICT. C. 55.

An Act for consolidating and amending the Acts relating to Public Health in England.
[11th August, 1875.]

PART I.

Preliminary.

4. In this Act, if not inconsistent with the context, the following words and expressions have the meanings hereinafter respectively assigned to them; that is to say,

“Borough” means any place for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled “An Act to provide for the regulation of municipal corporations in England and Wales,” and any Act amending the same :

“The metropolis” means the city of London and all parishes and places mentioned in schedules A, B, and C to the Metropolis Management Act, 1855 :

“Local government district” means any area subject to the jurisdiction of a local board constituted in pursuance of the local government acts before the passing of this Act, or in pursuance of this Act, and “local board” means any board so constituted :

“Improvement act district” means any area for the time being subject to the jurisdiction of any improvement commissioners as hereinafter defined :

“Improvement commissioners” means any commissioners, trustees, or other persons invested by any local Act with powers of town government and rating :

“Parish” means a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed :

“Union” means a union of parishes incorporated or united for the relief or maintenance of the poor under any public or local Act of parliament, and includes any parish subject to the jurisdiction of a separate board of guardians :

“Guardians” means any persons or body of persons by whom the relief of the poor is administered in any union :

“Person” includes any body of persons, whether corporate or unincorporate :

“Local authority” means urban sanitary authority and rural sanitary authority : * * *

PART II.

AUTHORITIES FOR EXECUTION OF ACT.

Constitution of Districts and Authorities.

5. For the purposes of this Act England, except the metropolis, shall consist of districts to be called respectively—

Urban and rural
sanitary districts.

- (1.) Urban sanitary districts, and
- (2.) Rural sanitary districts,

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Description of
urban districts
and urban
authorities.

(in this Act referred to as urban and rural districts); and such urban and rural districts shall respectively be subject to the jurisdiction of local authorities, called urban sanitary authorities and rural sanitary authorities (in this Act referred to as urban and rural authorities), invested with the powers in this Act mentioned.

6. Urban districts shall consist of the places in that behalf mentioned in the first column of the table in this section contained, and urban authorities shall be the several bodies of persons specified in the second column of the said table in relation to the said places respectively.

Urban District.	Urban Authority.
Borough constituted such either before or after the passing of this Act.	The mayor, aldermen, and burgesses acting by the council.
Improvement act district constituted such before the passing of this Act, and having no part of its area situated within a borough or local government district.	The improvement commissioners.
Local government district constituted such either before or after the passing of this Act, having no part of its area situated within a borough, and not coincident in area with a borough or improvement act district.	The local board.

Provided that—

- (1.) Any borough, the whole of which is included in and forms part of a local government district or improvement act district, and any improvement act district which is included in and forms part of a local government district, and any local government district which is included in and forms part of an improvement act district, shall for the purposes of this Act be deemed to be absorbed in the larger district in which it is included, or of which it forms part; and the improvement commissioners or local board, as the case may be, of such larger district, shall be the urban authority therein; and
- (2.) Where an improvement act district is coincident in area with a local government district, the improvement commissioners, and not a local board, shall be the urban authority therein; and
- (3.) Where any part of an improvement act district is situated within a borough or local government district, or where any part of a local government district is situated within a borough, the remaining part of such improvement act district or of such local government district so partly situated within a borough shall for the purposes of this Act continue subject to the like jurisdiction as it would have been subject to if this Act had not been passed, unless and until the Local Government Board by provisional order otherwise directs.

For the purposes of this Act, the boroughs of Oxford, Cambridge, Blandford, Calne, Wenlock, Folkestone, and Newport Isle of Wight, shall not be deemed to be boroughs, and the borough of Cambridge shall be deemed to be an improvement act district, and the borough of Oxford to be included in the local government district of Oxford. So much of the borough of Folkestone as is not included within the local government district of Sandgate shall be an urban district, and shall be under the jurisdiction, for the purposes of this Act, of the authority for executing "The Folkestone Improvement Act, 1855."

7. Every local board, and any improvement commissioners being an urban authority and not otherwise incorporated, shall continue to be or be a body corporate, designated (in the case of local boards and improvement commissioners being urban sanitary authorities at the time of the passing of this Act) by such name as they then bear, and (in the case of local boards constituted after the passing of this Act) by such name as they may with the sanction of the Local Government Board adopt; with a perpetual succession and a common seal, and with power to sue and be sued in such name, and to hold lands without any license in mortmain for the purposes of this Act.

9. The area of any union which is not coincident in area with an urban district, nor wholly included in an urban district (in this section called a rural union), with the exception of those portions (if any) of the area which are included in any urban district, shall be a rural district, and the guardians of the union shall form the rural authority of such district: * * *

Where the number of elective guardians who are not by this section disqualified from acting and voting as members of the rural authority is less than five, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number * * *, and the persons so nominated shall be entitled to act and vote as members of the rural authority but not further or otherwise. * * *

APPENDIX.

Incorporation of local boards and improvement commissioners.

Description of rural districts and rural authorities.

SCHEDULES.

SCHEDULE I.

RULES AS TO MEETINGS AND PROCEEDINGS.

(1.) *Rules Applicable to Local Boards.*

1. Every local board shall from time to time make regulations with respect to the summoning notice place management and adjournment of their meetings, and generally with respect to the transaction and management of their business under this Act.

2. No business shall be transacted at any such meeting unless at least one third of the full number of members be present thereat, subject to this qualification, that in no case shall a larger quorum than seven members be required.

3. Every local board shall from time to time at their annual meeting appoint one of their number to be chairman for one year at all meetings at which he is present.

4. If the chairman so appointed dies resigns or becomes incapable of acting, another member shall be appointed to be chairman for the period during which the person so dying resigning or becoming incapable would have been entitled to continue in office, and no longer.

5. If the chairman is absent from any meeting at the time appointed for holding the same, the members present shall appoint one of their number to act as chairman thereat.

6. The names of the members present, as well as of those voting on each question, shall be recorded, so as to show whether each vote given was for or against the question.

7. Every question at a meeting shall be decided by a majority of votes of the members present, and voting on that question.

8. In case of an equal division of votes the chairman shall have a second or casting vote.

9. The proceedings of a local board shall not be invalidated by any

APPENDIX.

vacancy or vacancies among their members, or by any defect in the election of such board, or in the election or selection or qualification of any members thereof.

10. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, if purporting to be signed by the chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

11. The annual meeting of a local board shall be held as soon as may be convenient after the fifteenth of April in each year.

12. The first meeting of a local board for a district constituted after the passing of this Act shall be held at such place and on such day (not being more than ten days after the completion of the election) as the returning officer may by written notice to each member of the board appoint; and the members shall appoint one of their number to be chairman at such meeting, and shall also appoint one of their number to be chairman for one year at all meetings at which he is present.

13. Nothing in these rules contained with respect to the appointment of chairman shall apply to the Oxford district, and in that district a chairman shall be appointed as heretofore.

39 & 40 VICT. C. 36.

An Act to consolidate the Customs Laws.

[24th July, 1876.]

Officers of
customs not to
serve in public
offices.

9. No commissioner, officer, clerk, or other person acting in the management or service of the customs shall be compelled * * * to assume the office of a mayor or sheriff, or to act in any corporate, parochial, or other public office. * * *

39 & 40 VICT. C. 61.

An Act to arrange for the better arrangement of divided parishes and other local areas, and to make sundry amendments in the law relating to the relief of the poor in England. [15th August, 1876.]

Division of
parishes into
wards for election
of guardians.

12. * * * The Local Government Board may by their order divide any parish into wards for the election of guardians and determine the number of guardians to be elected for every such ward having due regard to the value of the rateable property therein, and each such ward shall for the purposes of such election be deemed to be a separate parish except so far as the said board may otherwise order.

41 & 42 VICT. C. 16.

An Act to consolidate and amend the Law relating to Factories and Workshops. [27th May, 1878.]

Appointment,
payments, etc.,
of inspectors of
factories, and
clerks and
servants.

67. * * * An inspector under this Act shall not be liable to serve in any parochial or municipal office. * * *

41 & 42 VICT. C. 33.

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An Act to amend the Law relating to Dental Practitioners.

[22nd July, 1878.]

30. Every person registered under this Act shall be exempt, if he so desires, * * * from serving all corporate, parochial, ward, hundred, and township offices * * * ; and the name of any registered person shall not be returned in any list of persons liable to serve * * * in any such office as aforesaid.

Exemption of registered persons.

44 & 45 VICT. C. 58.

An Act to consolidate the Army Discipline and Regulation Act, 1879, and the subsequent Acts amending the same. [27th August, 1881.]

146. A person who is commissioned and in full pay as an officer in Her Majesty's regular forces shall not be capable of being nominated or elected * * * to be mayor or alderman of, or to hold any office in, any municipal corporation in any city, borough, or place in the United Kingdom.

Officers not to be sheriffs or mayors.

181.—(5.) The competence or liability of an officer of the auxiliary forces to be nominated or elected to, or to hold the office of * * * mayor, or alderman, or an office in a municipal corporation, shall not be affected by reason of the battalion or corps to which he belongs being assembled for annual training at the time of such nomination or election, or during the time of his tenure of office.

Modification of Act with respect to auxiliary force.

45 & 46 VICT. C. 48.

An Act to consolidate the Acts relating to the Reserve Forces.

[18th August, 1882.]

7. A man belonging to the army reserve shall not be liable to serve the office of constable or any other parochial township or borough office.

Men exempt from parish offices, etc.

MUNICIPAL CORPORATIONS ACT, 1882.

45 & 46 VICT. C. 50.

An Act for consolidating, with Amendments, enactments relating to Municipal Corporations in England and Wales.

[18th August, 1882.]

PART II.

CONSTITUTION AND GOVERNMENT OF BOROUGH.

Burgesses.

9.—(1.) A person shall not be deemed a burgess for any purpose of this Act unless he is enrolled as a burgess.

Qualification of burgess.

(2.) A person shall not be entitled to be enrolled as a burgess unless he is qualified as follows:—

(a.) Is of full age; and

(b.) Is on the fifteenth of July in any year, and has been during the whole of the then last preceding twelve months, in occupation, joint or several, of any house, warehouse, counting-house, shop, or other building (in this Act referred to as qualifying property) in the borough; and

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- (c.) Has during the whole of those twelve months resided in the borough, or within seven miles thereof; and
- (d.) Has been rated in respect of the qualifying property to all poor rates made during those twelve months for the parish wherein the property is situate; and
- (e.) Has on or before the twentieth of the same July paid all such rates, including borough rates (if any), as have become payable by him in respect of the qualifying property up to the then last preceding fifth of January.
- (3.) Every person so qualified shall be entitled to be enrolled as a burgess, unless he—
 - (a.) Is an alien; or
 - (b.) Has within the twelve months aforesaid received union or parochial relief or other alms; or
 - (c.) Is disentitled under any Act of Parliament.

Council; Mayor, Aldermen, and Councillors.

Constitution of council.

10.—(1.) The municipal corporation of a borough shall be capable of acting by the council of the borough, and the council shall exercise all powers vested in the Corporation by this Act or otherwise.

(2.) The council shall consist of the mayor, aldermen, and councillors.

Qualification of councillor.

11.—(1.) The councillors shall be fit persons elected by the burgesses.

(2.) A person shall not be qualified to be elected or to be a councillor, unless he—

- (a.) Is enrolled and entitled to be enrolled as a burgess; or
- (b.) Being entitled to be so enrolled in all respects except that of residence, is resident beyond seven miles but within fifteen miles of the borough, and is entered in the separate non-resident list directed by this Act to be made; and
- (c.) In either of those cases, is seised or possessed of real or personal property or both, to the value or amount, in the case of a borough having four or more wards, of one thousand pounds, and in the case of any other borough, of five hundred pounds, or is rated to the poor rate in the borough, in the case of a borough having four or more wards, on the annual value of thirty pounds, and in the case of any other borough of fifteen pounds.

(3.) Provided, that every person shall be qualified to be elected and to be a councillor, who is, at the time of election, qualified to elect to the office of councillor; which last-mentioned qualification for being elected shall be alternative for and shall not repeal or take away any other qualification.

(4.) But if a person qualified under the last foregoing proviso ceases for six months to reside in the borough, he shall cease to be qualified under that proviso, and his office shall become vacant, unless he was at the time of his election and continues to be qualified in some other manner.

Disqualifications for being councillor.

12.—(1.) A person shall be disqualified for being elected and for being a councillor, if and while he—

- (a.) Is an elective auditor or a revising assessor, or holds any office or place of profit, other than that of mayor or sheriff, in the gift or disposal of the council; or
- (b.) Is in holy orders, or the regular minister of a dissenting congregation; or
- (c.) Has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the council:

(2.) But a person shall not be so disqualified, or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in—

- (a.) Any lease, sale, or purchase of land, or any agreement for the same ; or
- (b.) Any agreement for the loan of money, or any security for the payment of money only ; or
- (c.) Any newspaper in which any advertisement relating to the affairs of the borough or council is inserted ; or
- (d.) Any company which contracts with the council for lighting or supplying with water or insuring against fire any part of the borough ; or
- (e.) Any railway company, or any company incorporated by Act of Parliament or Royal charter, or under the Companies Act, 1862.

25 & 26 Vict.
c. 89.

39.—(1.) If the mayor, or an alderman or councillor—

- (a.) Is declared bankrupt, or compounds by deed with his creditors, or makes an arrangement or composition with his creditors, under the Bankruptcy Act, 1869, by deed or otherwise ; or
- (b.) Is (except in case of illness) continuously absent from the borough, being mayor for more than two months, or, being alderman or councillor, for more than six months :

Avoidance of
office by bank-
ruptcy or
absence.
32 & 33 Vict.
c. 71.

he shall thereupon immediately become disqualified and shall cease to hold the office.

(2.) In any such event the council shall forthwith declare the office to be vacant, and signify the same by notice signed by three members of the council, and countersigned by the town clerk, and fixed on the town hall, and the office shall thereupon become vacant.

(3.) Where a person becomes so disqualified by being declared bankrupt, or compounding, or making an arrangement or composition, as aforesaid, the disqualification, as regards subsequent elections, shall, in case of bankruptcy, cease on his obtaining his order of discharge, and shall, in case of a compounding or composition as aforesaid, cease on payment of his debts in full, and shall in case of an arrangement as aforesaid, cease on his obtaining his certificate of discharge.

(4.) Where a person becomes so disqualified by absence, he shall be liable to the same fine as for non-acceptance of office, recoverable summarily, but the disqualification shall, as regards subsequent elections, cease on his return.

PART III.

PREPARATIONS FOR AND PROCEDURE AT ELECTIONS.

Parish Burgess Lists ; Burgess Rolls ; Ward Rolls.

45.—(8.) Every person enrolled in the burgess roll shall be deemed to be enrolled as a burgess, and every person not enrolled in the burgess roll shall be deemed to be not enrolled as a burgess.

The burgess roll
and ward rolls.

Supplemental and Exceptional Provisions.

73. Every municipal election not called in question within twelve months after the election, either by election petition or by information in the nature of a quo warranto, shall be deemed to have been to all intents a good and valid election.

Election valid
unless questioned
within twelve
months.

PART IV.

CORRUPT PRACTICES AND ELECTION PETITIONS.

Corrupt Practices.

77. In this Part—

“Bribery,” “treating,” “undue influence,” and “personation,” include respectively anything done before, at, after, or with respect to a municipal election, which if done before, at, after, or with respect to a parliamentary

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election would make the person doing the same liable to any penalty, punishment, or disqualification for bribery, treating, undue influence, or personation, as the case may be, under any Act for the time being in force with respect to parliamentary elections :

* * * "Candidate" means a person elected, or having been nominated, or having declared himself a candidate for election, to a corporate office :

* * * "Voter" means a burgess or a person who votes or claims to vote at a municipal election :

"Election Court" means a court constituted under this Part for the trial of an election petition :

"Municipal election petition" or "election petition" means a petition under this Part complaining of an undue municipal election :

"Parliamentary election petition" means a petition under the Parliamentary Elections Act, 1868 :

"Prescribed" means prescribed by general rules made under this Part :

"Borough" and "election" when used with reference to a petition mean the borough and election to which the petition relates.

81. A municipal election shall be wholly avoided by such general corruption, bribery, treating, or intimidation at the election as would by the common law of Parliament avoid a parliamentary election.

85. The votes of persons in respect of whom any corrupt practice is proved to have been committed at a municipal election shall be struck off on a scrutiny.

86. The enactments for the time being in force for the detection of personation and for the apprehension of persons charged with personation at a parliamentary election shall apply in the case of a municipal election.

Election Petitions.

87.—(1.) A municipal election may be questioned by an election petition on the ground—

- (a.) That the election was as to the borough or ward wholly avoided by general bribery, treating, undue influence, or personation ; or
- (b.) That the election was avoided by corrupt practices or offences against this Part committed at the election ; or
- (c.) That the person whose election is questioned was at the time of the election disqualified ; or
- (d.) That he was not duly elected by a majority of lawful votes.

(2.) A municipal election shall not be questioned on any of those grounds except by an election petition.

88.—(1.) An election petition may be presented either by four or more persons who voted or had a right to vote at the election or by a person alleging himself to have been a candidate at the election.

(2.) Any person whose election is questioned by the petition, and any returning officer of whose conduct a petition complains, may be made a respondent to the petition.

(3.) The petition shall be in the prescribed form and shall be signed by the petitioner, and shall be presented in the prescribed manner to the High Court in the Queen's Bench Division, and the prescribed officer shall send a copy thereof to the town clerk, who shall forthwith publish it in the borough.

(4.) It shall be presented within twenty-one days after the day on which the election was held, except that if it complains of the election on the ground of corrupt practices, and specifically alleges that a payment of money or other reward has been made or promised since the election by a person elected at the election, or on his account or with his privity, in pursuance or furtherance of such corrupt practices, it may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.

31 & 32 Vict.
c. 125.

Avoidance of
election for
general corrup-
tion.
Striking off
votes.

Personation.

Power to ques-
tion municipal
election by
petition.

Presentation of
petition.

89.—(1.) At the time of presenting an election petition or within three days afterwards, the petitioner shall give security for all costs, charges, and expenses which may become payable by him to any witness summoned on his behalf, or to any respondent.

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Security for
costs.

(2.) The security shall be to such amount not exceeding five hundred pounds, as the High Court, or a judge thereof, on summons, directs, and shall be given in the prescribed manner, either by a deposit of money, or by recognisance entered into by not more than four sureties, or partly in one way and partly in the other.

(3.) Within five days after the presentation of the petition the petitioner shall in the prescribed manner serve on the respondent a notice of the presentation of the petition, and of the nature of the proposed security, and a copy of the petition.

(4.) Within five days after service of the notice the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead, or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged the same.

(5.) An objection to a recognisance shall be decided in the prescribed manner.

(6.) If the objection is allowed, the petitioner may, within a further prescribed time not exceeding five days, remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognisance of the matter, make the security sufficient.

(7.) If no security is given, as prescribed, or any objection is allowed and is not removed, as aforesaid, no further proceedings shall be had on the petition.

90. On the expiration of the time limited for making objections, or, after objection made, on the objection being disallowed or removed, whichever last happens, the petition shall be at issue. Petition at issue.

91.—(1.) The prescribed officer shall as soon as may be make a list, in this Act referred to as the municipal election list, of all election petitions at issue, placing them in the order in which they were presented, and shall keep at his office a copy of this list, open to inspection in the prescribed manner. Municipal elec-
tion list.

(2.) The petitions shall, as far as conveniently may be, be tried in the order in which they stand in the list.

(3.) Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purposes of this Part the petition shall be deemed to be a separate petition against each respondent.

(4.) Where more petitions than one are presented relating to the same election, or to elections held at the same time for different wards of the same borough, they shall be bracketed together in the list as one petition, but shall, unless the High Court otherwise directs, stand in the list in the place where the last of them would have stood if it had been the only petition relating to that election.

92.—(1.) An election petition shall be tried by an election court consisting of a barrister qualified and appointed as in this section provided, without a jury. Constitution of
election court.

(2.) A barrister shall not be qualified to constitute an election court if he is of less than fifteen years' standing, or is a member of the Commons House of Parliament, or holds any office or place of profit under the Crown, other than that of recorder.

(3.) A barrister shall not be qualified to constitute an election court for trial of an election petition relating to any borough for which he is recorder, or in which he resides, or which is included in a circuit of Her Majesty's judges on which he practises as a barrister.

(4.) As soon as may be after a municipal election list is made out the

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prescribed officer shall send a copy thereof to each of the judges for the time being on the rota for the trial of parliamentary election petitions. * * *

(5.) If a commissioner to whom the trial of a petition is assigned, dies, or declines, or becomes incapable to act, the said judges or two of them may assign the trial to be conducted or continued by any other of the commissioners appointed under this section.

(6.) The election court shall for the purposes of the trial have the same powers and privileges as a judge on the trial of a parliamentary election petition, except that any fine or order of committal by the court may on motion by the person aggrieved be discharged or varied by the High Court, or in vacation by a judge thereof, on such terms, if any, as the High Court or judge thinks fit.

Trial of election
petition.

93.—(1.) An election petition shall be tried in open court, and notice of the time and place of trial shall be given in the prescribed manner not less than seven days before the day of trial.

(2.) The place of trial shall be within the borough, except that the High Court may, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, appoint some other convenient place for the trial.

(3.) The election court may in its discretion adjourn the trial from time to time, and from any one place to any other place within the borough or place where it is held.

(4.) At the conclusion of the trial the election court shall determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and shall forthwith certify in writing the determination to the High Court, and the determination so certified shall be final to all intents as to the matters at issue on the petition.

(5.) Where a charge is made in a petition of any corrupt practice or offence against this Part having been committed at the election the court shall, in addition to the certificate, and at the same time, report in writing to the High Court as follows :

(a.) Whether any corrupt practice or offence against this Part has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt practice or offence ;

(b.) The names of all persons (if any) proved at the trial to have been guilty of any corrupt practice or offence against this Part ;

(c.) Whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election in the borough or in any ward thereof.

(6.) The election court may at the same time make a special report to the High Court as to any matters arising in the course of the trial, an account of which ought, in the judgment of the election court, to be submitted to the High Court.

(7.) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct the same to be stated accordingly, and any such special case shall be heard before the High Court, and the decision of the High Court shall be final.

(8.) If it appears to the election court on the trial of a petition that any question of law as to the admissibility of evidence, or otherwise, requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve any such question, as questions may be reserved by a judge on a trial at nisi prius.

(9.) On the trial of a petition, unless the election court otherwise directs, any charge of a corrupt practice or offence against this Part may be gone into, and evidence in relation thereto received before any proof has been

given of agency on behalf of any candidate in respect of the corrupt practice or offence.

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(10.) On the trial of a petition complaining of an undue election and claiming the office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person.

(11.) The trial of a petition shall be proceeded with notwithstanding that the respondent has ceased to hold the office, his election to which is questioned by the petition.

(12.) A copy of any certificate or report made to the High Court on the trial of a petition, and, in the case of a decision by the High Court on a special case, a statement of the decision, shall be sent by the High Court to the Secretary of State.

(13.) A copy of any such certificate and a statement of any such decision shall also be certified by the High Court, under the hands of two or more judges thereof, to the town clerk of the borough.

94.—(1.) Witnesses at the trial of an election petition shall be summoned and sworn in the same manner, as nearly as circumstances admit, as witnesses at a trial *à nisi prius*, and shall be liable to the same penalties for perjury. Witnesses.

(2.) On the trial the election court may, by order in writing, require any person who appears to the court to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.

(3.) The court may examine any person so required to attend or being in court although he is not called and examined by any party to the petition.

(4.) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent or either of them.

(9.) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions at the assizes, may be allowed to him by a certificate of the election court or of the prescribed officer, and if the witness was called and examined by the court, shall be deemed part of the expenses of providing a court, but otherwise shall be deemed costs of the petition.

95.—(1.) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner, and at the prescribed time and place. Withdrawal of petition.

(2.) The application shall not be made until the prescribed notice of the intention to make it has been given in the borough.

(3.) On the hearing of the application any person who might have been a petitioner in respect of the election may apply to the court to be substituted as a petitioner, and the court may, if it thinks fit, substitute him accordingly.

(4.) If the proposed withdrawal is in the opinion of the court induced by any corrupt bargain or consideration, the court may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in the security, the original petitioner and his sureties shall be liable to pay the costs of the substituted petitioner.

(5.) If the court does not so direct, then security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

(6.) Subject as aforesaid, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.

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Abatement of
petition.

(7.) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

(8.) Where there are more petitioners than one, an application to withdraw a petition shall not be made except with the consent of all the petitioners.

96.—(1.) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2.) The abatement of a petition shall not affect the liability of the petitioner or of any other person to the payment of costs previously incurred.

(3.) On the abatement of a petition the prescribed notice thereof shall be given in the borough, and, within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the election court or High Court in the prescribed manner and at the prescribed time and place to be substituted as a petitioner; and the court may, if it thinks fit, substitute him accordingly.

(4.) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.

Withdrawal and
substitution of
respondents.

97.—(1.) If before the trial of an election petition a respondent other than a returning officer—

(a.) Dies, resigns, or otherwise ceases to hold the office to which the petition relates; or

(b.) Gives the prescribed notice that he does not intend to oppose the petition;

the prescribed notice thereof shall be given in the borough, and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election may apply to the election court or High Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons admitted shall not exceed three.

(2.) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon.

Costs on election
petitions.

98.—(1.) All costs, charges, and expenses of and incidental to the presentation of an election petition, and the proceedings consequent thereon, except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and proportions as the election court determines; and in particular any costs, charges, or expenses which in the opinion of the court have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused, whether they are or not on the whole successful.

(2.) The costs may be taxed in the prescribed manner * * * and may be recovered as the costs of such an action, or as otherwise prescribed.

(3.) If a petitioner neglects or refuses for three months after demand to pay to any person summoned as a witness on his behalf, or to the respondent, any sum certified to be due to him for his costs, charges, and expenses, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, every person who has under this Act entered into a recognizance relating to the petition shall be held to have made default in the recognizance, and the prescribed officer shall thereon certify the recognizance to be forfeited, and it shall be dealt with as a forfeited recognizance relating to a parliamentary election petition.

Reception of and
attendance on
the election
court.

99.—(1.) The town clerk shall provide proper accommodation for holding the election court; and any expenses incurred by him for the purposes of this section shall be paid out of the borough fund or borough rate.

(2.) All chief and head constables, superintendents of police, head-

boroughs, gaolers, constables and bailiffs shall give their assistance to the election court in the execution of its duties, and if any gaoler or officer of a prison makes default in receiving or detaining a prisoner committed thereto in pursuance of this Part, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(3.) The election court may employ officers and clerks as prescribed.

(4.) A shorthand writer shall attend at the trial of an election petition, and shall be sworn by the election court faithfully and truly to take down the evidence given at the trial. He shall take down the evidence at length. A transcript of the notes of the evidence taken by him shall, if the election court so directs, accompany the certificate of the election court. His expenses, according to a prescribed scale, shall be treated as part of the expenses incurred in receiving the court.

100.—(1.) The judges for the time being on the rota for the trial of parliamentary election petitions, may from time to time make, revoke, and alter General Rules for the effectual execution of this Part, and of the intention and object thereof, and the regulation of the practice, procedure, and costs of municipal election petitions, and the trial thereof, and the certifying and reporting thereon.

Rules of procedure and jurisdiction.

(2.) All such rules shall be laid before both Houses of Parliament within three weeks after they are made, if Parliament is then sitting, and if not, within three weeks after the beginning of the then next session of Parliament, and shall, while in force, have effect as if enacted in this Act.

(3.) Subject to the provisions of this Act, and of the rules made under it, the principles, practice, and rules for the time being observed in the case of parliamentary election petitions, and in particular the principles and rules with regard to agency and evidence, and to a scrutiny, and to the declaring any person elected in the room of any other person declared to have been not duly elected, shall be observed, as far as may be, in the case of a municipal election petition.

(4.) The High Court shall, subject to this Act, have the same powers, jurisdiction, and authority with respect to a municipal election petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction.

(5.) The duties to be performed by the prescribed officer under this Part shall be performed by the prescribed officer of the High Court.

(6.) The general rules in force at the commencement of this Act with respect to matters within this Part shall, until superseded by rules made under this section, and subject to any amendment thereof by rules so made, have effect, with the necessary modifications, as if made under this section.

101.—(1.) The remuneration and allowances to be paid to a commissioner for his services in respect of the trial of an election petition, and to any officers, clerks, or shorthand writers employed under this Part, shall be fixed by a scale made and varied by the election judges on the rota for the trial of parliamentary election petitions, with the approval of the Treasury. The remuneration and allowances shall be paid in the first instance by the Treasury, and shall be repaid to the Treasury, on their certificate, out of the borough fund or borough rate.

Expenses of election court.

(2.) But the election court may in its discretion order that such remuneration and allowances, or the expenses incurred by a town clerk for receiving the election court, shall be repaid, wholly or in part, to the Treasury or the town clerk, as the case may be, in the cases, by the persons, and in the manner following (namely):

(a.) When in the opinion of the election court a petition is frivolous and vexatious, by the petitioner;

(b.) When in the opinion of the election court a respondent has been personally guilty of corrupt practices at the election, by that respondent.

(3.) An order so made for the repayment of any sum by a petitioner or

APPENDIX.

Acts done pending a petition not invalidated.

Provisions as to elections in the room of persons unseated on petition.

Prohibition of disclosure of vote.

respondent may be enforced as an order for payment of costs ; but a deposit made or security given under this Part shall not be applied for any such repayment until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied.

102. Where a candidate who has been elected to a corporate office is, by a certificate of an election court or a decision of the High Court, declared not to have been duly elected, acts done by him in execution of the office, before the time when the certificate or decision is certified to the town clerk, shall not be invalidated by reason of that declaration.

103. Where on an election petition the election of any person to a corporate office has been declared void, and no other person has been declared elected in his room, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy ; and for the purposes of the election any duties to be performed by a mayor, alderman, or other officer, shall, if he has been declared not elected, be performed by a deputy, or other person who might have acted for him if he had been incapacitated by illness.

104. A person who has voted at a municipal election by ballot shall not in any proceeding to question the election be required to state for whom he has voted.

PART V.

CORPORATE PROPERTY AND LIABILITIES.

Misapplication of Corporate Property.

Prohibition of expenditure of corporate funds on parliamentary elections.

124.—(1.) It shall not be lawful for a municipal corporation, or the council of a borough, or a corporate officer, or a trustee, or other person acting for a municipal corporation, to pay or apply any money, stocks, funds, securities, or personal property, of or held in trust for the corporation, in payment of any expenses occasioned by a parliamentary election or incurred by any person offering himself as a candidate at or before a parliamentary election.

(2.) Any bond, covenant, recognizance, or judgment given by a corporation, council, officer, trustee, or person as aforesaid, for securing payment of such expenses, shall be void.

(3.) Any payment, application, bond, covenant, recognizance, or judgment made or given by a corporation, council, officer, trustee, or person as aforesaid, for inducing any person to labour in a parliamentary election at a future time, or to pay or incur expenses as aforesaid at a future time, shall be deemed to be forbidden and declared void by this section, although colourably made or given for any other cause or consideration.

(4.) Any mortgage or other disposition of corporate land for securing or satisfying any expenses or engagements incurred or to be incurred as aforesaid, and any estate or charge thereby created, shall be void.

(5.) Any resolution, bye-law, or other proceeding of a council, purporting to direct or authorize any payment or thing forbidden by this section, or made or adopted for evading the provisions thereof, shall be void.

(6.) If any member of a municipal corporation authorizes or directs any payment or application forbidden by this section, or assents to, or concurs or participates in, any affirmative vote or proceeding relating thereto, or signs or seals in his individual capacity, or affixes the corporate seal to, any instrument by this section declared void, he shall be guilty of a misdemeanour, and, on conviction thereof in the High Court, shall, in addition to such punishment as the court awards, be for ever disabled to take, hold, or exercise any office in the same corporation.

PART XII.

LEGAL PROCEEDINGS.

225.—(1.) An application for an information in the nature of a quo warranto against any person claiming to hold a corporate office shall not be made after the expiration of twelve months from the time when he became disqualified after election. Quo warranto and mandamus.

(2.) In the case of such an application, or of an application for a mandamus to proceed to an election of a corporate officer, the applicant shall give notice in writing of the application to the person to be affected thereby (in this section called the respondent) at any time not less than ten days before the day in the notice specified for making the application.

(3.) The notice shall set forth the name and description of the applicant, and a statement of the grounds of the application.

(4.) The applicant shall deliver with the notice a copy of the affidavits whereby the application will be supported.

(5.) The respondent may show cause in the first instance against the application.

(6.) If sufficient cause is not shown, the court, on proof of due service of the notice, statement, and copy of affidavits, used in support of the application, may, if it thinks fit, make the rule for the information or mandamus absolute.

(7.) The court may, if it thinks fit, direct that any issue of fact on an information be tried by jury in London or at Westminster.

(8.) The court may, if it thinks fit, direct that any writ of mandamus issued shall be peremptory in the first instance.

45 & 46 VICT. C. 58.

An Act to amend the Divided Parishes and Poor Law Amendment Act, 1876; and for other purposes. [18th August, 1882.]

8. Any wards already formed or hereafter to be formed by the Local Government Board under the Public Health Act, 1872, or the Public Health Act, 1875, for the election of guardians of the poor, and the number of guardians to be elected for such wards respectively, may be altered from time to time by that board as they may think fit.

Powers to alter wards for election of guardians in certain cases. 35 & 36 Vict. c. 79. 38 & 39 Vict. c. 55.

46 & 47 VICT. C. 51.

An Act for the better prevention of Corrupt and Illegal Practices at Parliamentary Elections. [25th August, 1883.]

Corrupt Practices.

4. Where, upon the trial of an election petition respecting an election for a county or borough, the election court, by the report made to the Speaker in pursuance of section eleven of the Parliamentary Elections Act, 1868, reports that any corrupt practice other than treating or undue influence has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever being elected to or sitting in the House of Commons for the said county or borough, and

Punishment of candidate found, on election petition, guilty personally of corrupt practices.

APPENDIX.

Punishment of
person convicted
on indictment of
corrupt
practices.

if he has been elected, his election shall be void ; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted on an indictment of a corrupt practice.

6.—(3.) A person who is convicted on indictment of any corrupt practice shall (in addition to any punishment as above provided) be not capable during a period of seven years from the date of his conviction :—

- (a.) Of being registered as an elector or voting at any election in the United Kingdom, whether it be a parliamentary election or an election for any public office within the meaning of this Act ; or—
- (b.) Of holding any public or judicial office within the meaning of this Act, and if he holds any such office the office shall be vacated.

Illegal Practices.

Punishment on
conviction of
illegal practice.

10. A person guilty of an illegal practice, whether under the foregoing sections or under the provisions hereinafter contained in this Act, shall on summary conviction be liable to a fine not exceeding one hundred pounds, and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election (whether it be a parliamentary election or an election for a public office within the meaning of this Act) held for or within the county or borough in which the illegal practice has been committed.

Supplemental Provisions, Definitions, Savings, and Repeal.

Obligation of
witness to
answer, and
certificate of
indemnity.

59.—(1.) A person who is called as a witness respecting an election before any election court shall not be excused from answering any question relating to any offence at or connected with such election, on the ground that the answer thereto may criminate or tend to criminate himself or on the ground of privilege ;

Provided that—

- (a.) a witness who answers truly all questions which he is required by the election court to answer shall be entitled to receive a certificate of indemnity under the hand of a member of the court stating that such witness has so answered : and
 - (b.) an answer by a person to a question put by or before any election court shall not, except in the case of any criminal proceeding for perjury in respect of such evidence, be in any proceeding, civil or criminal, admissible in evidence against him.
- (2.) Where a person has received such a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any offence under the Corrupt Practices Prevention Acts or this Act committed by him previously to the date of the certificate at or in relation to the said election, the court having cognizance of the case shall on proof of the certificate stay the proceeding, and may in their discretion award to the said person such costs as he may have been put to in the proceeding.
- (3.) Nothing in this section shall be taken to relieve a person receiving a certificate of indemnity from any incapacity under this Act or from any proceeding to enforce such incapacity (other than a criminal prosecution).
- (4.) This section should apply in the case of a witness before any election commissioners, in like manner as if the expression "election court" in this section included election commissioners.
- (5.) Where a solicitor or person lawfully acting as agent for any party to an election petition respecting any election for a county or borough has not taken any part or been concerned in such election, the election commissioners inquiring into such election shall not be entitled to examine such solicitor or agent respecting matters which came to his knowledge by reason only of his being concerned as solicitor or agent for a party to such petition.

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60. An election court or election commissioners, when reporting that certain persons have been guilty of any corrupt or illegal practice, shall report whether those persons have or not been furnished with certificates of indemnity; and such report shall be laid before the attorney-general (accompanied in the case of the commissioners with the evidence on which such report was based) with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence should, in his opinion, be sufficient to support a prosecution.

Submission of report of election court of commissioners to attorney-general.

64. In this Act, unless the context otherwise requires—

General interpretation of terms.

The expression "High Court" means Her Majesty's High Court of Justice in England:

The expressions "court of summary jurisdiction," "petty sessional court," and "Summary Jurisdictions Acts" have the same meaning as in the Summary Jurisdiction Act, 1879:

42 & 43 Vict. c. 49.

The expression "the attorney-general" includes the solicitor-general in cases where the office of the attorney-general is vacant or the attorney-general is interested or otherwise unable to act:

The expression "elector" means any person whose name is for the time being on the register, roll or book containing the names of the persons entitled to vote at the election with reference to which the expression is used:

The expression "register of electors" means the said register, roll or book:

The expression "polling agent" means an agent of the candidate appointed to attend at a polling station in pursuance of the Ballot Act, 1872, or of the Acts therein referred to or amending the same:

55 & 56 Vict. c. 33.

The expression "person" includes an association or body of persons, corporate or unincorporate, and where any act is done by any such association or body, the members of such association or body who have taken part in the commission of such act shall be liable to any fine or punishment imposed for the same by this Act:

The expression "committee room" shall not include any house or room occupied by a candidate at an election as a dwelling, by reason only of the candidate there transacting business with his agents in relation to such election; nor shall any room or building be deemed to be a committee room for the purposes of this Act by reason only of the candidate or any agent of the candidate addressing therein electors, committee-men or others:

The expression "public office" means any office under the crown or under the charter of a city or municipal borough or under the Acts relating to Municipal Corporations or to the Poor Law, or under the Elementary Education Act, 1870, or under the Public Health Act, 1875, or under any Acts amending the above-mentioned Acts, or under any other Acts for the time being in force (whether passed before or after the commencement of this Act) relating to local government, whether the office is that of mayor, chairman, alderman, councillor, guardian, member of a board, commission, or other local authority in any county, city, borough, union, sanitary district or other area, or is the office of clerk of the peace, town clerk, clerk or other officer under a council, board, commission, or other authority, or is any other office to which a person is elected or appointed under any such charter or Act as above mentioned, and includes any other municipal or parochial office; and the expressions "election," "election petition," "election court," and "register of electors," shall, where expressed to refer to an election for any such public office, be construed accordingly:

33 & 34 Vict. c. 75.
38 & 39 Vict. c. 55.

The expression "judicial office" includes the office of justice of the peace and revising barrister:

The expression "indictment" includes information:

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The expression "costs" includes costs, charges, and expenses :

The expression "payment" includes any pecuniary or other reward ; and the expressions "pecuniary reward" and "money" shall be deemed to include any office, place, or employment, and any valuable security, or other equivalent for money, and any valuable consideration, and expressions referring to money shall be construed accordingly :

The expression "Licensing Acts" means the Licensing Acts, 1872 to 1874 :

Other expressions have the same meaning as in the Corrupt Practices Prevention Acts.

MUNICIPAL ELECTIONS (CORRUPT AND ILLEGAL PRACTICES) ACT, 1884.

[47 & 48 VICT. C. 70.]

An Act for the better Prevention of Corrupt and Illegal Practices at Municipal and other Elections. [14th August 1884.]

Corrupt Practices.

Definition and punishment of corrupt practice at municipal election.

2.—(1.)—The expression "corrupt practice" in this Act means any of the following offences, namely, treating, undue influence, bribery, and personation as defined by the enactments set forth in Part One of the Third Schedule to this Act, and aiding, abetting, counselling, and procuring the commission of the offence of personation.

(2.) A person who commits any corrupt practice in reference to a municipal election shall be guilty of the like offence, and shall on conviction be liable to the like punishment, and subject to the like incapacities, as if the corrupt practice had been committed in reference to a parliamentary election.

Incapacity of candidate reported guilty of corrupt practice. 45 & 46 Vict. c. 50.

3.—(1.) Where upon the trial of an election petition respecting a municipal election for a borough or ward of a borough it is found by the report of an election court made in pursuance of section ninety-three of the Municipal Corporations Act, 1882, that any corrupt practice, other than treating and undue influence, has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever holding a corporate office in the said borough, and if he has been elected his election shall be void ; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted of a corrupt practice.

(2.) Upon the trial of an election petition respecting a municipal election for a borough or ward of a borough in which a charge is made of any corrupt practice having been committed in reference to such election, the election court shall report in writing to the High Court whether any of the candidates at such election has been guilty by his agents of any corrupt practice in reference to such election, and if the report is that any candidate at such election has been guilty by his agents of a corrupt practice in reference to such election, that candidate shall not be capable of being elected to or holding any corporate office in the said borough, during a period of three years from the date of the report, and if he has been elected, his election shall be void.

Illegal Practices.

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4.—(1.) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be made—

Certain expenditure to be illegal practice.

- (a.) on account of the conveyance of electors to or from the poll whether for the hiring of horses or carriages, or for railway fares, or otherwise; or
- (b.) to an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice; or
- (c.) on account of any committee room in excess of the number allowed by this Act (that is to say), if the election is for a borough one committee room for the borough, and if the election is for a ward one committee room for the ward, and if the number of electors in such borough or ward exceeds two thousand, one additional committee room for every two thousand electors and incomplete part of two thousand electors, over and above the said two thousand.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section either before, during, or after a municipal election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this Act, shall also be guilty of an illegal practice.

(3.) Provided that where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section.

6.—(1.) If any person votes or induces or procures any person to vote at a municipal election, knowing that he or such person is prohibited, whether by this or any other Act, from voting at such election, he shall be guilty of an illegal practice.

Voting by prohibited persons and publishing of false statements of withdrawal to be illegal.

(2.) Any person who before or during a municipal election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.

(3.) Provided that a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this section committed without his knowledge and consent.

7. A person guilty of an illegal practice in reference to a municipal election, shall on summary conviction be liable to a fine not exceeding one hundred pounds and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election (whether it be a parliamentary election or an election for a public office within the meaning of this Act) held for or within the borough in which the illegal practice has been committed.

Punishment on conviction of illegal practice.

8.—(1.) An illegal practice within the meaning of this Act shall be deemed to be an offence against Part Four of the Municipal Corporations Act, 1882, and a petition alleging such illegal practice may be presented and tried accordingly.

Incapacity of candidate reported guilty of illegal practice. 45 & 46 Vict. c. 50.

(2.) Upon the trial of an election petition respecting a municipal election for a borough or ward of a borough in which a charge is made of any illegal practice having been committed in reference to such election, the election court shall report in writing to the High Court whether any of the candidates at such election has been guilty by himself or his agents of an illegal practice in reference to such election, and if the report is that a candidate at such election has been guilty by himself or his agents of an

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illegal practice in reference to such election, the candidate shall not be capable of being elected to or of holding any corporate office in the said borough during the period for which he was elected to serve, or for which if elected he might have served, and if he was elected his election shall be void; and, if the report is that such candidate has himself been guilty of such illegal practice, he shall also be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice.

Illegal Payment, Employment, and Hiring.

Providing of money for illegal practice or payment to be illegal payment.

9. Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess of any maximum amount allowed by this Act, or for replacing any money expended in any such payment, except where the same may have been previously allowed in pursuance of this Act to be an exception, such person shall be guilty of illegal payment.

Employment of hackney carriages, or of carriages and horses kept for hire.

10.—(1.) A person shall not let, lend, or employ for the purpose of the conveyance of electors to or from the poll at a municipal election, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which he keeps or uses for the purpose of letting out for hire, and if he lets, lends, or employs such carriage, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors to or from the poll, he shall be guilty of illegal hiring.

(2.) A person shall not hire, borrow, or use for the purpose of the conveyance of electors to or from the poll any carriage, horse, or other animal which he knows the owner thereof is prohibited by this section to let, lend, or employ for that purpose, and if he does so he shall be guilty of illegal hiring.

(3.) Nothing in this Act shall prevent a carriage, horse, or other animal being let to or hired, employed, or used by an elector, or several electors at their joint cost, for the purpose of conveying him or them to or from the poll.

(4.) No person shall be liable to pay any duty or to take out a license for any carriage by reason only of such carriage being used without payment or promise of payment for the conveyance of electors to or from the poll at an election.

Corrupt withdrawal from a candidature.

11. Any person who corruptly induces or procures any other person to withdraw from being a candidate at a municipal election, in consideration of any payment or promise of payment, shall be guilty of illegal payment, and any person withdrawing in pursuance of such inducement or procurement shall also be guilty of illegal payment.

Certain expenditure to be illegal payment.

12.—(1.) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is made in contravention of this section, either before, during, or after an election, the person making such payment shall be guilty of illegal payment, and any person being a party to any such contract or receiving such payment shall also be guilty of illegal payment if he knew that the same was made contrary to law.

Certain employment to be illegal.

13.—(1.) No person shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except as follows (that is to say),

(a.) a number of persons may be employed, not exceeding two for a borough or ward, and if the number of electors in such borough or ward exceeds two thousand one additional person may be employed

for every thousand electors and incomplete part of a thousand electors over and above the said two thousand, and such persons may be employed as clerks and messengers, or in either capacity; and

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(b.) one polling agent may be employed in each polling station:

Provided that this section shall not apply to any engagement or employment for carrying into effect a contract *bonâ fide* made with any person in the ordinary course of business.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him shall be guilty of illegal employment, and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was engaged or employed in contravention of this Act.

(3.) A person legally employed for payment under this section may or may not be an elector, but may not vote.

14. Every bill, placard, or poster having reference to a municipal election shall bear upon the face thereof the name and address of the printer and publisher thereof; and any person printing, publishing, or posting, or causing to be printed, published, or posted, any such bill, placard, or poster as aforesaid, which fails to bear upon the face thereof the name and address of the printer and publisher, shall, if he is a candidate, be guilty of an illegal practice, and if he is not the candidate, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Name and address of printer on placards.

15. The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense, in excess of a certain maximum, shall not affect the right of any creditor who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Act.

Saving for creditors.

16.—(1.) (a.) Any premises, which are licensed for the sale of any intoxicating liquor for consumption on or off the premises, or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises, or

Use of certain premises for committee rooms or meetings to be illegal hiring.

(b.) Any premises where any intoxicating liquor is supplied to members of a club, society, or association, or any part of any such premises,

shall not, for the purpose of promoting or procuring the election of a candidate at a municipal election, be used either as a committee room or for holding a meeting, and if any person hires or uses any such premises or any part thereof in contravention of this section he shall be guilty of illegal hiring, and the person letting or permitting the use of such premises or part thereof, if he knew it was intended to use the same, in contravention of this section, shall also be guilty of illegal hiring.

(2.) Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

17. (1.) A person guilty of an offence of illegal payment, employment, or hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

Punishment of illegal payment, employment, or hiring.

(2.) Where an offence of illegal payment, employment, or hiring is committed by a candidate, or with his knowledge and consent, such candidate shall be guilty of an illegal practice.

18. Where upon the trial of an election petition respecting a municipal election for a borough or ward of a borough it is found by the election court that illegal practices or offences of illegal payment, employment, or hiring, committed in reference to such election for the purpose of promoting the election of a candidate at that election, have so extensively prevailed that they may be reasonably supposed to have affected the result

Avoidance of election for extensive illegal practices, &c.

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of that election, the election court shall report such finding to the High Court, and the election of such candidate, if he has been elected, shall be void, and he shall not, during the period for which he was elected to serve, or for which, if elected, he might have served, be capable of being elected to or holding any corporate office in the said borough.

Excuse and Exception for Corrupt or Illegal Practice or Illegal Payment, Employment, or Hiring.

Report exonerating candidate in certain cases of corrupt and illegal practice by agents.

19. Where, upon the trial of an election petition respecting a municipal election, the election court reports that a candidate at such election has been guilty by his agents of the offence of treating and undue influence, and illegal practice, or of any of such offences, in reference to such election, and the election court further report that the candidate has proved to the court—

- (a.) that no corrupt or illegal practice was committed at such election by the candidate or with his knowledge or consent, and the offences mentioned in the said report were committed without the sanction or connivance of such candidate; and
- (b.) that all reasonable means for preventing the commission of corrupt and illegal practices at such election were taken by and on behalf of the candidate; and
- (c.) that the offences mentioned in the said report were of a trivial, unimportant, and limited character; and
- (d.) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents;

then the election of such candidate shall not, by reason of the offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Act.

Power of High Court and election court to except innocent act from being illegal practice. &c.

20. Where, on application made, it is shown to the High Court or to a municipal election court by such evidence as seems to the Court sufficient—

- (a.) that any act or omission of a candidate at a municipal election for a borough or ward of a borough, or of any agent or other person, would, by reason of being in contravention of any of the provisions of this Act, be but for this section an illegal practice, payment, employment, or hiring; and
- (b.) that such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and
- (c.) that such notice of the application has been given in the said borough as to the court seems fit;

and under the circumstances it seems to the court to be just that the said candidate, agent and person, or any of them, should not be subject to any of the consequences under this Act of the said act or omission, the court may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Act of the said act or omission.

Disqualification of Electors.

Prohibition of persons guilty of offences from voting.

22. Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at a municipal election is prohibited from voting at such election, and if any such person votes his vote shall be void, and shall be struck off on a scrutiny.

Application of ss. 37 & 38 of 46 & 47 Vict. c. 51.

23. So much of sections thirty-seven and thirty-eight of the Corrupt and Illegal Practices Prevention Act, 1883, as is set forth in Part Two of the Third Schedule to this Act, shall apply as part of this Act.

24.—(1.) The town clerk in every municipal borough shall annually in July make out a list containing the names and description of all persons who, though otherwise qualified to be enrolled as burgesses of such borough, have under this Act, or under the Corrupt and Illegal Practices Prevention Act, 1883, or under any other Act for the time being in force relating to a parliamentary election or an election to any public office, become after the commencement of this Act, by reason of conviction of a corrupt or illegal practice, or of the report of any election court or election commissioners, incapable of voting at a municipal election in such borough or any ward thereof, and the town clerk shall state in the list (in this Act referred to as the corrupt and illegal practices list), the offence of which each person has been found guilty.

(2.) For the purpose of making out such list he shall examine the report of any election court or election commissioners who have respectively tried an election petition or inquired into an election where the election (whether a parliamentary election or an election to any public office) was held in the said borough or in the county in which such borough is situate.

(3.) The town clerk of any municipal borough shall, not less than fourteen days before the first day appointed by law for the publication of the parish burgess lists in such borough, send the corrupt and illegal practices list to the overseers of every parish wholly or partly within the borough, and the overseers shall publish that list together with the parish burgess lists, and shall also, in the case of every person in the corrupt and illegal practices list, omit his name from the list of persons entitled to be enrolled as burgesses or to be elected councillors, or, as circumstances require, add "objected" before his name in the list of claimants published by them, in like manner as is required by law in any other cases of disqualification.

(4.) Any person named in the corrupt and illegal practices list may claim to have his name omitted therefrom, and any person entitled to object to any parish burgess list may object to the omission of the name of any person from such first-mentioned list. Such claims and objections shall be sent in within the same time and be dealt with in like manner, and any such objection shall be served on the person referred to therein in like manner, as nearly as circumstances admit, as other claims and objections under the enactments relating to the enrolment of burgesses.

(5.) The revising authority shall determine such claims and objections and shall revise such list in like manner, as nearly as circumstances admit, as in the case of other claims and objections and of any parish burgess list and list of persons entitled to be elected councillors.

(6.) Where it appears to the revising authority that a person not named in the list is subject to have his name inserted in the corrupt and illegal practices list, he shall (whether an objection to the omission of such name from the list has or has not been made, but) after giving such person an opportunity of making a statement to show cause to the contrary, insert his name in that list and expunge his name from any list of burgesses or of persons entitled to be elected councillors.

(7.) A revising authority in acting under this section shall determine only whether a person is incapacitated by conviction or by the report of any election court or election commissioners, and shall not determine whether a person has or has not been guilty of any corrupt or illegal practice.

(8.) The corrupt and illegal practices list shall be appended to the burgess roll, and shall be printed and published therewith wherever the same is printed or published.

(9.) Any town clerk or overseer who fails to comply with the provisions of this section shall be liable to the like fine as he is liable to under section seventy-five of the Municipal Corporations Act, 1882, for any neglect or refusal in relation to a parish burgess list as therein mentioned.

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List in burgess roll of persons incapacitated for voting by corrupt or illegal practices.

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Proceedings on Election Petitions.

Petition for
illegal practice.

25.—(1.) A municipal election petition complaining of the election on the ground of an illegal practice may be presented at any time before the expiration of fourteen days after the day on which the town clerk receives the return and declaration respecting election expenses by the candidate to whose election the petition relates, or where there is an authorised excuse for failing to make the return and declaration then within the like time after the date of the allowance of the excuse.

Time for pre-
sentation of peti-
tion alleging
illegal practices.

(2.) A municipal election petition, complaining of the election on the ground of an illegal practice, and specifically alleging a payment of money or other act made or done since the election by the candidate elected at such election, or by an agent of the candidate, or with the privity of the candidate, in pursuance or in furtherance of such illegal practice, may be presented at any time within twenty-eight days after the date of such payment or act, whether or not any other petition against that person has been previously presented or tried.

45 & 46 Vict.
c. 50.

(3.) Any election petition presented within the time limited by the Municipal Corporations Act, 1882, may, for the purpose of complaining of the election upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition complaining of the election on the ground of that illegal practice can, under this section, be presented.

(4.) This section shall apply notwithstanding the illegal practice is also a corrupt practice.

Withdrawal of
election petition.

26.—(1.) Before leave for the withdrawal of a municipal election petition is granted, there shall be produced affidavits by all the parties to the petition and their solicitors, but the High Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

(2.) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(3.) The affidavits of the applicant and his solicitor shall further state the ground on which the petition is sought to be withdrawn.

(4.) If any person makes any agreement or terms, or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms, or undertaking is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat shall at any time be vacated, or in consideration of the withdrawal of any other election petition, or is or are (whether lawful or unlawful) not mentioned in the aforesaid affidavits, he shall be guilty of a misdemeanor, and shall be liable on conviction on indictment to imprisonment for a term not exceeding twelve months, and to a fine not exceeding two hundred pounds.

(5.) Copies of the said affidavits shall be delivered to the Director of public prosecutions a reasonable time before the application for the withdrawal is heard, and the court may hear the Director of public prosecutions or his assistant or other representative (appointed with the approval of the Attorney-General), in opposition to the allowance of the withdrawal of the petition, and shall have power to receive the evidence on oath of any person or persons whose evidence the Director of public prosecutions or his assistant, or other representative, may consider material.

(6.) Where in the opinion of the court the proposed withdrawal of a petition was the result of any agreement, terms, or undertaking prohibited by this section, the court shall have the same power with respect to the

security as under section ninety-five of the Municipal Corporations Act, 1882, where the withdrawal is induced by a corrupt consideration.

(7.) In every case of the withdrawal of an election petition, by leave of the election court such court shall report in writing to the High Court whether, in the opinion of such election court, the withdrawal of such petition was the result of any agreement, terms, or undertaking, or was in consideration of any payment, or in consideration that the seat should at any time be vacated, or in consideration of the withdrawal of any other election petition, or for any other considerations, and if so, shall state the circumstances attending the withdrawal.

(8.) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.

27. The trial of every municipal election petition shall, so far as is practicable consistently with the interests of justice in respect of such trial, be continued *die in diem* on every lawful day until its conclusion.

28.—(1.) On every trial of a municipal election petition the Director of public prosecutions shall by himself or by his assistant, or by such representative as hereinafter mentioned, attend at the trial, and it shall be the duty of such Director to obey any directions given to him by the election court with respect to the summoning and examination of any witness to give evidence on such trial, and with respect to the prosecution by him of offenders, and with respect to any person to whom notice is given to attend with a view to report him as guilty of any corrupt or illegal practice.

(2.) It shall also be the duty of such Director, without any direction from the election court, if it appears to him that any person is able to give material evidence as to the subject of the trial, to cause such person to attend the trial, and with the leave of the court to examine such person as a witness.

(3.) It shall also be the duty of the said Director, without any direction from the election court, if he thinks it expedient in the interests of justice so to do, to prosecute, either before the said court or before any other competent court, any person who has not received a certificate of indemnity and who appears to him to have been guilty of a corrupt or illegal practice at a municipal election.

(4.) Where a person is prosecuted before an election court for any corrupt or illegal practice, and such person appears before the court, the court shall proceed to try him summarily for the said offence, and such person, if convicted thereof upon such trial, shall be subject to the same incapacities as he is subject to under this or any other Act, upon conviction, whether on indictment or in any other proceeding for the said offence; and further, may be adjudged by the court, if the offence is a corrupt practice, to be imprisoned, with or without hard labour, for a term not exceeding six months, or to pay a fine not exceeding two hundred pounds, and if the offence is an illegal practice, to pay such fine as is fixed by this Act for the offence:

Provided that, in the case of a corrupt practice, the court, before proceeding to try summarily any person, shall give such person the option of being tried by a jury.

(5.) Where a person is so prosecuted for any such offence, and either he elects to be tried by a jury or he does not appear before the court, or the court thinks it in the interests of justice expedient that he should be tried before some other court, the court, if of opinion that the evidence is sufficient to put the said person upon his trial for the offence, shall order such person to be prosecuted on indictment or before a court of summary jurisdiction, as the case may require, for the said offence; and in either case may order him to be prosecuted before such court as may be named in the order; and for all purposes preliminary and of and incidental to such prosecution the offence shall be deemed to have been committed within the jurisdiction of the court so named.

APPENDIX.

45 & 46 Vict.
c. 50.

Continuation of
trial of election
petition.

Attendance of
Director of public
prosecutions on
trial of election
petition, and
prosecution by
him of offenders.

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- (6.) Upon such order being made,
 (a.) if the accused person is present before the court, and the offence is an indictable offence, the court shall commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence; and
 (b.) if the accused person is present before the court, and the offence is not an indictable offence, the court shall order him to be brought before the court of summary jurisdiction before whom he is to be prosecuted, or cause him to give bail to appear before that court; and
 (c.) if the accused person is not present before the court, the court shall as circumstances require issue a summons for his attendance, or a warrant to apprehend him and bring him before a court of summary jurisdiction, and that court, if the offence is an indictable offence, shall, on proof only of the summons or warrant and the identity of the accused, commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence, or if the offence is punishable on summary conviction, shall proceed to hear the case, or if such court be not the court before whom he is directed to be prosecuted shall order him to be brought before that court.

45 & 46 Vict.
c. 50.

(7.) Any order or act of an election court under this section shall not be subject to be discharged or varied under sub-section six of section ninety-two of the Municipal Corporations Act, 1882.

(8.) The Director of public prosecutions may nominate, with the approval of the Attorney-General, any barristers or solicitors of not less than ten years' standing, one of whom shall, when required, act as the representative for the purposes of this section of such Director, and when so acting shall receive such remuneration as the Treasury may approve. There shall be allowed to the Director and his assistant or representative, for the purposes of this section, such allowance for expenses as the Treasury may approve.

45 & 46 Vict.
c. 50.

(9.) The costs incurred in defraying the expenses of the Director of public prosecutions under this section (including the remuneration of his representatives) shall, in the first instance, be paid by the Treasury, and so far as they are not in the case of any prosecution paid by the defendant, shall be deemed to be expenses of the election court, and shall be paid as the expenses of that court are directed by section one hundred and one of the Municipal Corporations Act, 1882, to be paid; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of the said costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct.

Power to election
court to order
payment by
borough or indi-
vidual of costs of
election petition.

29.—(1.) Where upon the trial of a municipal election petition it appears to the election court that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition, and that such respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the court may make one or more orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right as follows;

- (a.) if it appears to the court that corrupt practices extensively prevailed in reference to the said election, the court may order the whole or part of the costs to be paid by the borough: and
 (b.) if it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to such election, the court may, after giving such person or persons an opportunity of being heard by counsel or solicitor and of examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person, or those persons or any of them, and may order that if the costs cannot be

recovered from one or more of such persons they shall be paid by some other of such persons or by either of the parties to the petition.

(2.) Where any person appears to the court to have been guilty of the offence of a corrupt or illegal practice, the court may, after giving such person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offence or to the said person to be paid by the said person to such person or persons as the court may direct.

(3.) The rules and regulations of the Supreme Court of Judicature with respect to costs to be allowed in actions, causes, and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings under Part Four of the Municipal Corporations Act, 1882, and this Act, and the taxing officer shall not allow any costs, charges, or expenses on a higher scale than would be allowed in any action, cause or matter in the High Court on the higher scale, as between solicitor and client.

45 & 46 Vict.
c. 50.

Miscellaneous.

30. Subject to the other provisions of this Act, the procedure for the prosecution of a corrupt or illegal practice or any illegal payment, employment, or hiring committed in reference to a municipal election, and the removal of any incapacity incurred by reason of a conviction or report relating to any such offence, and the duties of the Director of public prosecutions in relation to any such offence, and all other proceedings in relation thereto (including the grant to a witness of a certificate of indemnity), shall be the same as if such offence had been committed in reference to a parliamentary election; and sections forty-five and forty-six and sections fifty to fifty-seven (both inclusive), and sections fifty-nine and sixty of the Corrupt and Illegal Practices Prevention Act, 1883, shall apply accordingly as if they were re-enacted in this Act with the necessary modifications, and with the following additions:—

General provisions as to prosecution of offences under this Act.

46 & 47 Vict.
c. 51.

(a.) Where the Director of public prosecutions considers that the circumstances of any case require him to institute a prosecution before any court other than an election court for any offence other than a corrupt practice committed in reference to a municipal election in any borough, he may, by himself or his assistant, institute such prosecution before any court of summary jurisdiction in the county in which the said borough is situate or to which it adjoins, and the offence shall be deemed for all purposes to have been committed within the jurisdiction of such court; and

(b.) General rules for the purposes of Part Four of the Municipal Corporations Act, 1882, shall be made by the same authority as rules of court under the said sections; and

(c.) The giving or refusal to give a certificate of indemnity to a witness by the election court shall be final and conclusive.

45 & 46 Vict.
c. 50.

s. 94 (7.)

31. If any person, in consequence of conviction or of the report of an election court under this Act, becomes not capable of being elected to or sitting in the House of Commons, or of being elected to or holding any public or judicial office, and such person, at the date of the said conviction or report, has been so elected or holds any such office, then his seat or office, as the case may be, shall be vacated as from that date.

Person incapacitated by conviction or report to vacate seat or office.

32.—(1.) Where any costs of a petition are, under an order of a municipal election court, to be paid by a borough, such costs shall be paid out of the borough fund or borough rate.

Payment and recovery of costs.

(2.) Where any costs or other sums are, under the order of an election court or otherwise under this Act, to be paid by any person, those costs shall be a simple contract debt due from such person to the person or persons to whom they are to be paid, and if payable to the Treasury shall be a debt to Her Majesty, and in either case may be recovered accordingly.

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Service of
notices.

33. Where any summons, notice, or document is required to be served on any person with reference to any proceeding respecting a municipal election in any borough or ward of a borough, whether for the purpose of causing him to appear before the High Court or any election court, or otherwise, or for the purpose of giving him an opportunity of making a statement, or showing cause, or being heard by himself, before any such court, for any purpose of this Act, such summons, notice, or document may be served either by delivering the same to such person, or by leaving the same at, or sending the same by post by a registered letter to, his last-known place of abode in the said borough, or, if the proceeding is before any court, in such other manner as the court may direct, and in proving such service by post it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered with the post office.

Definitions.

45 & 46 Vict.
c. 50.
46 & 47 Vict.
c. 51.

34. In this Act expressions have the same meaning as in the Municipal Corporations Act, 1882, and in the Corrupt and Illegal Practices Prevention Act, 1883; except that the words "borough," "election petition," "election court," and "candidate," shall, unless the context otherwise requires, have the meaning given by the Municipal Corporations Act, 1882, and not the meaning given by the Corrupt and Illegal Practices Prevention Act, 1883; and except that "election" shall, unless the context otherwise requires, mean a municipal election.

For the purposes of this Act the number of electors shall be taken according to the enumeration of the electors in the burgess roll.

Application of Act to other elections.

Application of
this Act and
Part IV. of
45 & 46 Vict.
c. 50 to other
elections.

36.—(1.) Subject as herein-after mentioned, the provisions of this Act and of Part Four of the Municipal Corporations Act, 1882, as amended by this Act, shall extend to elections for the offices mentioned in the first column of the First Schedule to this Act as if re-enacted herein and in terms made applicable thereto, and petitions may be presented and tried, and offences prosecuted and punished, and incapacities incurred in reference to each such election accordingly.

Provided that in the application of the said provisions to any such election :

- (a.) The area, officer, and rate mentioned opposite to the office in the second, third, and fourth columns of the said schedule, shall be deemed to be substituted for the borough or ward, town clerk, and borough fund or rate respectively.
- (b.) The expression "corporate office" in the said provisions shall mean an office mentioned in the said schedule, and in relation to the election of a guardian of a union includes any such office in the union, and "a municipal election" shall mean an election to such office, and the expressions "municipal election court," "municipal election list," and "municipal election petition" shall be construed accordingly.
- (c.) No corrupt and illegal practices list shall be made for any such election.
- (d.) Vacancies created by the decision of an election court shall be filled by a new election.
- (e.) A petition relating to the election of a guardian of a union may be tried at any place within the union.
- (f.) Nothing in the said provisions shall render it unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate to any office mentioned in the said schedule on any licensed or other premises not situate in an urban sanitary district or in the Metropolis;
- (g.) Where the poll at any election to an office in the said schedule is taken by means of voting papers, such of the said provisions as relate to personation, polling agents, disclosure of votes and con-

vevance of voters, shall not apply; but any offence in relation to voting papers or to personation or to voting at such election which is punishable on summary conviction (that is to say,) the offences mentioned in section three of the Poor Law Amendment Act, 1851, and in rule sixty-nine of Schedule Two to the Public Health Act, 1875, shall, without prejudice to the punishment under such section and rule of a person guilty of such offence, be deemed to be an illegal practice within the meaning of the said provisions.

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14 & 15 Vict.
c. 105.
32 & 39 Vict.
c. 55.

(2.) The judges for the time being on the rota for the trial of parliamentary election petitions, or any two of those judges, may annually appoint as many barristers, not exceeding five, as they may think necessary to be commissioners for the trial of election petitions under Part Four of the Municipal Corporations Act, 1882, and this Act, and shall from time to time assign the petitions (whether relating to a municipal election or to any other election to which this Act extends) to be tried by each commissioner.

37. The provisions of this Act which prohibit the payment of any sum, and the incurring of any expense by or on behalf of a candidate at an election, on account of, or in respect of, the conduct or management of the election, and those which relate to the time for sending in and paying claims, and those which relate to the maximum amount of election expenses, or the return or declaration respecting election expenses, shall not apply to any of the elections mentioned in the First Schedule to this Act.

Exemption from provisions as to maximum expenses.

SCHEDULES.;

FIRST SCHEDULE.

Section 36.

ELECTIONS TO WHICH THIS ACT EXTENDS.

In England.

Office.	Area.	Officer.	Rate.
Member of local board, as defined by the Public Health Act, 1875.	Local Government district or ward of such district.	Clerk to the local board, or person performing like duties.	The general district rate.
Member of Improvement Commissioners, as defined by the Public Health Act, 1875.	Improvement Act district or ward of such district.	Clerk to the Improvement commissioners, or person performing like duties.	The general district rate or other rate out of which the expenses of the Improvement Commissioners are payable.
Guardian elected under the Poor Law Amendment Act, 1834.	Parish or ward of a parish or united parishes.	Clerk to the guardians, or person performing like duties.	The poor rate of the parish or united parishes.
Member of school board.	School district or division of the metropolis.	Returning officer of school board.	The school fund.

APPENDIX.

THIRD SCHEDULE.

PART I.

Enactments defining Corrupt Practices.—Enactments defining the Offence of Bribery.

The Corrupt Practices Prevention Act, 1854, 17 & 18 Vict. c. 102,
ss. 2 and 3.

Bribery defined.

S. 2. The following persons shall be deemed guilty of bribery, and shall be punishable accordingly :—

- (1.) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure or endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election.
- (2.) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or endeavour to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid, on account of any voter having voted or refrained from voting at any election.
- (3.) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election.
- (4.) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure, or engage, promise, or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election.
- (5.) Every person who shall advance or pay, or caused to be paid, any money to or to the use of any other person with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election : Provided always, that the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses bona fide incurred at or concerning any election.

Bribery further defined.

S. 3. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly :—

- (1.) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or from refraining or agreeing to refrain from voting at any election.
- (2.) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

The Representation of the People Act, 1867, 30 & 31 Vict. c. 102,
s. 49.

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S. 49. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at the future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section is mentioned is made, shall also be guilty of bribery, and punishable accordingly.

Corrupt payment of rates to be punishable as bribery.

Enactment defining the Offence of Personation.

The Ballot Act, 1872, 35 & 36 Vict. c. 33, s. 24.

S. 24. A person shall, for all purposes of the laws relating to parliamentary and municipal elections, be deemed to be guilty of the offence of personation who, at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name.

Personation defined.

Enactments defining the Offences of Treating and Undue Influence.

The Corrupt and Illegal Practices Prevention Act, 1883, 46 & 47 Vict. c. 51, ss. 1 and 2.

S. 1. Any person who corruptly by himself or by any other person either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating.

What is treating.

And every elector who corruptly accepts or takes any such meat, drink, entertainment, or provision, shall also be guilty of treating.

S. 2. Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be guilty of undue influence.

What is undue influence.

Enactment defining the Offences of Bribery, Treating, Undue Influence, and Personation.

The Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, s. 77.

S. 77. "Bribery," "treating," "undue influence," and "personation" include respectively anything done before, at, after, or with respect to a

Definitions.

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municipal election, which, if done before, at, after, or with respect to a parliamentary election, would make the person doing the same liable to any penalty, punishment, or disqualification for bribery, treating, undue influence, or personation, as the case may be, under any Act for the time being in force with respect to parliamentary elections.

PART II.

Enactments relating to Disqualification of Electors.

Section 23.

The Corrupt and Illegal Practices Prevention Act, 1883, 46 & 47 Vict. c. 51, ss. 37 and 38.

Prohibition of disqualified persons from voting.

35 & 36 Vict. c. 60.
45 & 46 Vict. c. 50.

Hearing of person before he is reported guilty of corrupt or illegal practice, and incapacity of person reported guilty.

S. 37. Every person who, in consequence of conviction or of the report of any election court or election commissioners under this Act, or under the Corrupt Practices (Municipal Elections) Act, 1872, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to corrupt practices at an election for any public office, has become incapable of voting at any election, whether a parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void.

S. 38. (1.) Before a person, not being a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is reported by an election court * * * to have been guilty, at an election, of any corrupt or illegal practice, the court * * * shall cause notice to be given to such person, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

(5.) Every person who, after the commencement of this Act, is reported by any election court * * * to have been guilty of any corrupt or illegal practice at an election, shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacity as he would be subject to if he had at the date of such election been convicted of the offence of which he is reported to have been guilty * * *

(6.) Where a person who is a justice of the peace is reported by any election court * * * to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of the Director of public prosecutions to report the case to the Lord High Chancellor of Great Britain, with such evidence as may have been given of such corrupt practice, and where any such person acts as a justice of the peace by virtue of his being or having been mayor of a borough, the Lord High Chancellor shall have the same power to remove such person from being a justice of the peace as if he was named in a commission of the peace.

(7.) Where a person who is a barrister or a solicitor, or who belongs to any profession the admission to which is regulated by law, is reported by any election court * * * to have been guilty of any corrupt practice in reference to an election, whether such person has obtained a certificate of indemnity or not, it shall be the duty of the Director of public prosecutions to bring the matter before the Inn of Court, High Court, or tribunal having power to take cognizance of any misconduct of such person in his profession, and such Inn of Court, High Court, or tribunal may deal with such person in like manner as if such corrupt practice were misconduct by such person in his profession.

(8.) With respect to a person holding a license or certificate under the

Licensing Acts (in this section referred to as a licensed person) the following provisions shall have effect :—

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- (a.) If it appears to the court by which any licensed person is convicted of the offence of bribery or treating that such offence was committed on his licensed premises, the court shall direct such conviction to be entered in the proper register of licenses :
- (b.) If it appears to an election court * * * that a licensed person has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises, such court * * * (subject to the provisions of this Act as to a person having an opportunity of being heard by himself and producing evidence before being reported) shall report the same ; and, whether such person obtained a certificate of indemnity or not, it shall be the duty of the Director of public prosecutions to bring such report before the licensing justices from whom or on whose certificate the licensed person obtained his license, and such licensing justices shall cause such report to be entered in the proper register of licenses :
- (c.) Where an entry is made in the register of licenses of any such conviction of or report respecting any licensed person as above in this section mentioned, it shall be taken into consideration by the licensing justices in determining whether they will or will not grant to such person the renewal of his license or certificate, and may be a ground, if the justices think fit, for refusing such renewal.

* * * * *

MEDICAL RELIEF DISQUALIFICATION REMOVAL ACT, 1885.

48 & 49 VICT. C. 46.

An Act to prevent Medical relief disqualifying a person from voting.

[6th August, 1885.]

2.—(1.) Where a person has in any part of the United Kingdom received for himself, or for any member of his family, any medical or surgical assistance, or any medicine at the expense of any poor rate, such person shall not by reason thereof be deprived of any right to be registered or to vote either—

Medical relief not to disqualify.

- (a.) as a parliamentary voter ; or
- (b.) as a voter at any municipal election ; or
- (c.) as a burgess ; or
- (d.) as a voter at any election to an office under the provisions of any statute ;

but nothing in this section shall apply to the election—

- (a.) of any guardian of the poor ; or
- (b.) of any member of any parochial board in Scotland ; or
- (c.) of any other body acting in the distribution of relief to the poor from the poor rate.

(2.) Every person shall be qualified to be registered as a voter and to vote as aforesaid who would be so qualified if the provisions of this Act had come into force on the fifteenth day of July one thousand eight hundred and eighty-four.

4. The term “medical or surgical assistance” in this Act shall include all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the medical officer having authority to give such attendance and recommendation at the expense of any poor rate.

Definition of medical and surgical assistance.

An Act to remove the Disabilities of the Police to vote at Parliamentary Elections. [23rd May, 1887.]

Whereas it is inexpedient that any person otherwise entitled to be registered as a voter should be incapacitated to vote at parliamentary elections by reason of his being employed in or in connection with the police: Be it therefore enacted, etc. * * *

Constable on duty to be entitled to vote at any polling station.

2. Where a constable is or is likely to be, on the day of any election, sent or employed in the discharge of his duty so as to prevent him voting at the polling booth or station at which he would otherwise be entitled by law to vote, the following enactments shall have effect:—

(1.) Such constable may, at any time within seven days before the election apply to the chief constable for a certificate, and the chief constable shall thereupon give a certificate under his hand, stating the name of the constable, his number in the police force, his number and description on the register of voters, and the fact that he is so sent or employed;

(2.) The presiding officer at any polling booth or station shall, on production by such constable of the said certificate, allow him to vote at that booth or station, and shall forthwith cancel the said certificate, and deal with the same in like manner as the counterfoils of voting papers are directed by law to be dealt with;

(3.) No such constable shall, under this section, be entitled to vote at any election, at which he would not, but for this section, be entitled to vote, nor vote more than once in any election, and if he so votes, or attempts to vote, he shall be subject to all the penalties imposed by law on a person personating or attempting to personate a voter at such election;

(4.) In this section,—

(a.) “Constable” includes any person belonging to a police force;

(b.) “Chief Constable” includes an assistant chief constable, a commissioner or assistant commissioner of police, a head constable, and any other person for the time being in command of a police force, or acting in that capacity;

(c.) “Register of voters” has the same meaning as in the Ballot Act, 1872.

35 & 36 Vict.
c. 33.

COUNTY ELECTORS ACT, 1888.

51 & 52 VICT. C. 10.

An Act to provide for the Qualification and Registration of Electors for the purpose of Local Government in England and Wales.

[16th May, 1888.]

Extension of
burgess franchise
to county
electors outside
municipal
boroughs.

45 & 46 Vict.
c. 50.

2.—(1.) For the purpose of the election of county authorities in England, the burgess qualification, that is to say, the qualification enacted by section nine of the Municipal Corporations Act, 1882, shall extend to every part of a county not within the limits of a borough, and a person possessing in any part of a county outside the limits of a borough such burgess qualification, shall be entitled to be registered under this Act as a county elector in the parish in which the qualifying property is situate.

(2.) Sections nine, thirty-one, thirty-three, and sixty-three of the Municipal Corporations Act, 1882, and any enactments of that or any other Act affecting the same, shall extend to so much of every county as is not comprised within the limits of a municipal borough in like manner as if they were herein re-enacted, with the substitution of “county” for “borough” and of “county elector” for “burgess,” and with the other necessary modifications.

LOCAL GOVERNMENT (ENGLAND AND WALES)
ACT, 1888.

APPENDIX.

51 & 52 VICT. C. 41.

An Act to amend the Laws relating to Local Government in England and Wales, and for other purposes connected therewith.

[13th August, 1888.]

PART I.

COUNTY COUNCILS.

Constitution of County Council.

2.—(1.) The council of a county and the members thereof shall be constituted and elected and conduct their proceedings in like manner, and be in the like position in all respects, as the council of a borough divided into wards, subject nevertheless to the provisions of this Act, and in particular to the following provisions, that is to say:—

Composition and election of council and position of chairman.

(2.) As respects the alderman or councillors—

(a.) clerks in holy orders and other ministers of religion shall not be disqualified for being elected and being alderman or councillors;

(b.) a person shall be qualified to be an alderman or councillor who, though not qualified in manner provided by the Municipal Corporations Act, 1882, as applied by this Act, is a peer owning property in the county, or is registered as a parliamentary voter in respect of the ownership of property of whatsoever tenure situate in the county;

45 & 46 Vict. c. 50.

(c.) the alderman shall be called county aldermen, and the councillors shall be called county councillors; and a county alderman shall not, as such, vote in the election of a county alderman;

(d.) the county councillors shall be elected for a term of three years, and shall then retire together, and their places shall be filled by a new election; and

(e.) the divisions of the county for the purpose of the election of county councillors shall be called electoral divisions and not wards, and one county councillor only shall be elected for each electoral division:

(3.) As respects the number of the county councillors, and the boundaries of the electoral divisions in every county—

(a.) the number of the county councillors, and their apportionment between each of the boroughs which have sufficient population to return one councillor and the rest of the county, shall be such as the Local Government Board may determine; and

(b.) any borough returning one councillor only shall be an electoral division; and

(c.) in the rest of the county the electoral divisions shall be such as in the case of a borough returning more than one councillor the council of the borough, and in the rest of the county the quarter sessions for the county, may determine, subject in either case to the directions enacted by this Act; and in the case of elections after the first, to any alterations made, in accordance with the said directions, in manner in this Act mentioned:

(4.) As respects the electors of the county councillors—

the persons entitled to vote at their election shall be, in a borough, the burgesses enrolled in pursuance of the Municipal Corporations Act, 1882, and the Acts amending the same, and elsewhere the persons registered as county electors under the County Electors Act, 1888:

45 & 46 Vict. c. 50.
51 & 52 Vict. c. 10.

(5.) As respects the chairman of the county council—

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- (a.) he shall be called chairman instead of mayor ; and
 (b.) he shall, by virtue of his office, be a justice of the peace for the county ; but before acting as such justice he shall, if he has not already done so, take the oaths required by law to be taken by a justice of the peace other than the oath respecting the qualification by estate.

PART III.

BOUNDARIES.

Future alteration of county districts and parishes and wards and future establishment of urban districts.

57.—(1.) Whenever a county council is satisfied that a *prima facie* case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things ; that is to say—

- (a.) the alteration or definition of the boundary thereof ;
 (b.) the division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish ;
 (c.) the conversion of any such district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts ;
 (d.) the division of an urban district into wards ; and
 (e.) the alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards,

the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, Education Department, or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.

(2.) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards, shall come into operation upon being finally approved by the county council.

(3.) In any other case the order shall be submitted to the Local Government Board ; and if within three months after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district, or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one-sixth of the total number of electors in that parish, petition the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not.

(4.) If any such petition is not presented, or being presented is withdrawn, the Local Government Board shall confirm the order.

(5.) The Local Government Board, on confirming an order, may make such modifications therein as they consider necessary for carrying into effect the objects of the order.

(6.) An order under this section, when confirmed by the Local Government Board, shall be forthwith laid upon the table of both Houses of Parliament, if Parliament be then sitting, and, if not, forthwith after the then next meeting of Parliament.

(7.) This section shall be in addition to, and not in derogation of, any power of the Local Government Board in respect of the union or division or alteration of parishes.

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PART V.

SUPPLEMENTAL.

Application of Acts.

75. For the purpose of the provisions of this Act with respect to county councils, and to the chairmen, members, committees, and officers of such councils, and otherwise for the purpose of carrying this Act into effect, the following portions of the Municipal Corporations Act, 1882, namely, Part Two, Part Three, Part Four (as amended by the Municipal Elections (Corrupt Practices) Act, 1884), section one hundred and twenty-four in Part Five, Part Twelve, Part Thirteen, the Second Schedule, Part Two and Part Three of the Third Schedule, and Part One of the Eighth Schedule shall, so far as the same are unrepealed and are consistent with the provisions of this Act, apply as if they were herein re-enacted with enactments amending the same in such terms and with such modifications as are necessary to make them applicable to the said council and their chairmen, members, committees, and officers, and to the other provisions of this Act.

Application of
45 & 46 Vict.
c. 50 to county
councils and this
Act, 47 & 48
Vict. c. 79.

Definitions.

100. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them; that is to say:—

Interpretation of
certain terms in
the Act.

The expression “county” does not include a county of a city or county of a town :

The expression “entire county” means, in the case of a county divided into administrative counties, the whole of the county formed by those administrative counties :

The expression “division of a county,” in the provisions of this Act respecting the property of quarter sessions, includes any hundred, lathe, wapentake, or other like division :

The expression “administrative county” means the area for which a county council is elected in pursuance of this Act, but does not (except where expressly mentioned) include a county borough :

The expression “metropolis” means the city of London and the parishes and places mentioned in Schedules A, B, and C to the Metropolis Management Act, 1855, as amended by subsequent Acts : 18 & 19 Vict. c. 120.

The expression “borough” means any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the mayor, aldermen, and burgesses of a borough shall include a reference to the mayor, aldermen, and citizens of a city : * * * 45 & 46 Vict. c. 50.

The expression “parish” means a place for which a separate overseer is or can be appointed, and where part of a parish is situate within, and part of it without, any county, borough, urban sanitary district, or other area, means each such part :

The expressions “parliamentary county,” and “parliamentary election,” and “parliamentary voters,” have the same meaning as in the Registration Act, 1885, and the Acts therein referred to : * * * 48 & 49 Vict. c. 15.

The expression “existing” means existing at the time specified in the enactment in which the expression is used, and if no such time is expressed, then at the day appointed to be for the purpose of such enactment the appointed day : * * *

The expression “person” includes any body of persons, whether corporate or unincorporate : * * *

The expression “property” includes all property, real and personal, and

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all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books, and documents; and when used in relation to any quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in trust for, or would but for this Act have, on or after that day, belonged to, or been vested in, or held in trust for, such quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority; and the expression "property" shall further include, in the case of the county of Chester, any surplus revenue of the River Weaver Trust, which is or would but for this Act be payable to the quarter sessions: * * *

The expression "expenses" includes cost and charges:

The expression "costs" includes charges and expenses: * * *

The expression "office" includes any place, situation, or employment, and the expression "officer" shall be construed accordingly: * * *

52 & 53 VICT. C. 69.

An Act for the more effectual Prevention and Punishment of Bribery and Corruption of and by Members, Officers, or Servants of Corporations, Councils, Boards, Commissioners, or other Public Bodies.

[30th August, 1889.]

Corruption in
office a misde-
meanour.

1.—(1.) Every person who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive, for himself, or for any other person, any gift, loan, fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said public body is concerned, shall be guilty of a misdemeanour.

(2.) Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of any public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body as aforesaid is concerned, shall be guilty of a misdemeanour.

Penalty for
offences.

2. Any person on conviction for offending as aforesaid shall, at the discretion of the court before which he is convicted, * * *

(d) In the event of a second conviction for a like offence he shall, in addition to the foregoing penalties, be liable to be adjudged to be for ever incapable of holding any public office, and to be incapable for seven years of being registered as an elector, or voting at an election either of members to serve in Parliament or of members of any public body, and the enactments for preventing the voting and registration of persons declared by reason of corrupt practices to be incapable of voting shall apply to a person adjudged in pursuance of this section to be incapable of voting. * * *

7. In this Act—

The expression "public body" means any council of a county or county of a city or town, any council of a municipal borough * * * or other body which has power to act under and for the purposes of any Act relating to local government * * *

52 & 53 VICT. C. 72.

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An Act to provide for the Notification of Infectious Disease to Local Authorities. [30th August, 1889.]

11. A payment made to any medical practitioner in pursuance of this Act shall not disqualify that practitioner for serving as member of the council of any county or borough, or as member of a sanitary authority, or as guardian of a union, or in any municipal or parochial office. * * * Non-disqualification of medical officer by receipt of fee.

53 & 54 VICT. C. 21.

An Act to consolidate certain Enactments relating to the Regulation of the Inland Revenue. [25th July, 1890.]

Commissioners and Officers.

8. No commissioner, collector, officer, or person employed under the authority of the commissioners in relation to inland revenue, shall be compelled to serve as a mayor or sheriff or in any corporate or parochial or other public office or employment. * * * Privileges of commissioners and officers.

56 & 57 VICT. C. 6.

An Act to remove Disabilities of Policemen with regard to their Vote in Municipal School Board, and other Elections. [12th May, 1893.]

Whereas it is expedient that the Police Disabilities Removal Act, 1887, whereby the disabilities of persons employed in or in connection with the police to vote at parliamentary elections were removed, should be extended to municipal and other similar elections: Be it therefore enacted, etc.

1. The enactments mentioned in the schedule to this Act, which dis- Repeal.
qualify the police for voting at municipal and other elections, are hereby repealed to the extent mentioned in the third column of the said schedule.

2. The provisions of section two of the Police Disabilities Removal Act, 1887, shall apply to all municipal and other elections as well as parliamentary elections, subject to the modification that the words "register of voters" shall mean the register of voters in force for such municipal or other elections. Facilities for polling under 50 & 51 Vict. c. 9, s. 2, to apply to all elections.

SCHEDULE.

Session and Chapter.	Short Title.	Extent of Repeal.
19 & 20 Vict. c. 69.	The County and Borough Police Act, 1856.	Section nine, the words "be capable of giving his vote for the election of any person to any municipal office in such borough;" and also the words "nor shall any such constable."
22 & 23 Vict. c. 32.	The County and Borough Police Act, 1859.	Section three, the words "be capable of giving his vote for the election of any person to any municipal office in any borough within such county or in any other borough in which such constable has authority, nor shall any such constable."

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56 & 57 VICT. c. 73.

An Act to make further provision for Local Government in England and Wales. [5th March, 1894.]

PART I.

PARISH MEETINGS AND PARISH COUNCILS.

Constitution of Parish Meetings and Parish Councils.

Parish meetings.

2.—(1.) The parish meeting for a rural parish shall consist of the following persons, in this Act referred to as parochial electors, and no others, namely, the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish.

PART II.

GUARDIANS AND DISTRICT COUNCILS.

Election and qualification of guardians.

20. As from the appointed day the following provisions shall apply to boards of guardians :—

(1.) There shall be no ex-officio or nominated guardians :

(2.) A person shall not be qualified to be elected or to be a guardian for a poor law union unless he is a parochial elector of some parish within the union, or has during the whole of the twelve months preceding the election resided in the union, or in the case of a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, is qualified to be elected a councillor for that borough, and no person shall be disqualified by sex or marriage for being elected or being a guardian. So much of any enactment, whether in a public general or local and personal Act, as relates to the qualification of a guardian shall be repealed :

(3.) The parochial electors of a parish shall be the electors of the guardians for the parish, and, if the parish is divided into wards for the election of guardians, the electors of the guardians for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :

(4.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :

(5.) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board :

(6.) The term of office of a guardian shall be three years, and one-third, as nearly as may be, of every board of guardians shall go out of office on the fifteenth day of April in each year, and their places shall be filled by the newly elected guardians. Provided as follows :—

(a.) Where the county council on the application of the board of guardians of any union in their county consider that it would be expedient to provide for the simultaneous retirement of the whole of the board of guardians for the union, they may direct that the members of the board of guardians for that union shall retire together on the fifteenth day of April in every third year, and such order shall have full effect, and where a union is in more than one county, an order may be made by a joint committee of the councils of those counties ;

(b.) Where at the passing of this Act the whole of the guardians of any union, in pursuance of an order of the Local Government Board, retire together at the end of every third year, they shall continue so to retire, unless the county council, or a joint committee of the

county councils, on the application of the board of guardians or of any district council of a district wholly or partially within the union, otherwise direct :

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(7.) A board of guardians may elect a chairman or vice-chairman, or both, and not more than two other persons, from outside their own body, but from persons qualified to be guardians of the union, and any person so elected shall be an additional guardian and member of the board. Provided that on the first election, if a sufficient number of persons who have been ex-officio or nominated guardians of the union, and have actually served as such, are willing to serve, the additional members shall be elected from among those persons.

21. As from the appointed day,—

(1.) Urban sanitary authorities shall be called urban district councils, and their districts shall be called urban districts; but nothing in this section shall alter the style or title of the corporation or council of a borough :

Names of county districts and district councils.

(2.) For every rural sanitary district there shall be a rural district council whose district shall be called a rural district :

(3.) In this and every other Act of Parliament, unless the context otherwise requires, the expression "district council" shall include the council of every urban district, whether a borough or not, and of every rural district, and the expression "county district" shall include every urban and rural district whether a borough or not.

22. The chairman of a district council unless a woman or personally disqualified by any Act shall be by virtue of his office justice of the peace for the county in which the district is situate, but before acting as such justice he shall, if he has not already done so, take the oaths required by law to be taken by a justice of the peace other than the oath respecting the qualification by estate.

Chairman of council to be justice.

23. As from the appointed day, where an urban district is not a borough—

(1.) There shall be no ex-officio or nominated members of the urban sanitary authority :

(2.) A person shall not be qualified to be elected or to be a councillor unless he is a parochial elector of some parish within the district, or has during the whole of the twelve months preceding the election resided in the district, and no person shall be disqualified by sex or marriage for being elected or being a councillor. So much of any enactment whether in a public general or local and personal Act as relates to the qualification of a member of an urban sanitary authority shall be repealed :

Constitution of district councils in urban districts not being boroughs.

(3.) The parochial electors of the parishes in the district shall be the electors of the councillors of the district, and, if the district is divided into wards, the electors of the councillors for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :

(4.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :

(5.) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board :

(6.) The term of office of a councillor shall be three years, and one-third, as nearly as may be, of the council, and if the district is divided into wards one-third, as nearly as may be, of the councillors for each ward, shall go out of office on the fifteenth day of April in each year, and their places shall be filled by the newly elected councillors. Provided that a county council may on request made by a resolution of an urban district council, passed by two-thirds of the members voting on the resolution, direct that the members of such council shall retire together on the fifteenth day of April in every third year, and such order shall have full effect.

24.—(1.) The district council of every rural district shall consist of a

Rural district councils.

APPENDIX.

chairman and councillors, and the councillors shall be elected by the parishes or other areas for the election of guardians in the district.

(2.) The number of councillors for each parish or other area in a rural district shall be the same as the number of guardians for that parish or area.

(3.) The district councillors for any parish or other area in a rural district shall be the representatives of that parish or area on the board of guardians, and when acting in that capacity shall be deemed to be guardians of the poor, and guardians as such shall not be elected for that parish or area.

(4.) The provisions of this Act with respect to the qualification, election, and term of office and retirement of guardians, and to the qualification of the chairman of the board of guardians, shall apply to district councillors and to the chairman of the district council of a rural district, and any person qualified to be a guardian for a union comprising the district shall be qualified to be a district councillor for the district.

(5.) Where a rural sanitary district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county shall, save as otherwise provided by or in pursuance of this or any other Act, be as from the appointed day a rural district ;

Provided that where the number of councillors of any such district will be less than five, the provisions, so far as unrepealed, of section nine of the Public Health Act, 1875, with respect to the nomination of persons to make up the members of a rural authority to five, shall apply, unless the Local Government Board by order direct that the affairs of the district shall be temporarily administered by the district council of an adjoining district in another county with which it was united before the appointed day, and, if they so direct, the councillors of the district shall be entitled, so far as regards those affairs, to sit and act as members of that district council, but a separate account shall be kept of receipts and expenses in respect of the district, and the same shall be credited or charged separately to the district.

(6.) The said provisions of section nine of the Public Health Act, 1875, shall apply to the district council of a rural district to which they apply at the passing of this Act.

(7.) Every district council for a rural district shall be a body corporate by the name of the district council, with the addition of the name of the district, or if there is any doubt as to the latter name, of such name as the county council direct, and shall have perpetual succession and a common seal, and may hold land for the purposes of their powers and duties without licence in mortmain.

30. The provisions of this Part of this Act respecting guardians shall apply to the administrative county of London and to every county borough.

35. Save as specially provided by this Act, this Part of this Act shall not apply to the administrative county of London or to a county borough.

PART III.

AREAS AND BOUNDARIES.

36.—(1.) For the purpose of carrying this Act into effect in the case

- (a.) every parish and rural sanitary district which at the passing of this Act is situate partly within and partly without an administrative county ; and
- (b.) every parish which at the passing of this Act is situate partly within and partly without a sanitary district ; and
- (c.) every rural parish which has a population of less than two hundred ; and

38 & 39 Vict.
c. 55.

Guardians in
London and
county
boroughs.

Restrictions on
application of
Act to London,
&c.

Duties and
powers of county
council with
respect to areas
and boundaries.

(d.) every rural sanitary district which at the passing of this Act has less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district; and

(e.) every rural parish which is co-extensive with a rural sanitary district; every county council shall forthwith take into consideration every such case within their county, and whether any proposal has or has not been made as mentioned in section fifty-seven of the Local Government Act, 1888, shall as soon as practicable, in accordance with that section, cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect this Act in accordance with the following provisions, namely:—

51 & 52 Vict.
c. 41.

(i.) the whole of each parish, and, unless the county council for special reasons otherwise direct, the whole of each rural district shall be within the same administrative county;

(ii.) the whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district; and

(iii.) every rural district which will have less than five elected councillors shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.

(4.) Where a rural parish is co-extensive with a rural sanitary district, then, until the district is united to some other district or districts, and unless the county council otherwise direct, a separate election of a parish council shall not be held for the parish, but the district council shall, in addition to their own powers, have the powers of, and be deemed to be, the parish council.

PART IV.

SUPPLEMENTAL.

Parish Meetings and Elections.

43. For the purposes of this Act a woman shall not be disqualified by marriage for being on any local government register of electors, or for being an elector of any local authority, provided that a husband and wife shall not both be qualified in respect of the same property.

Removal of
disqualification
of married
women.

44.—(1.) The local government register of electors and the parliamentary register of electors, so far as they relate to a parish, shall, together, form the register of the parochial electors of the parish; and any person whose name is not in that register shall not be entitled to attend a meeting or vote as a parochial elector, and any person whose name is in that register shall be entitled to attend a meeting and vote as a parochial elector unless prohibited from voting by this or any other Act of Parliament.

Register of
parochial
electors.

(2.) Where the parish is in a parliamentary borough, such portion of the parliamentary register of electors for the county as contains the names of persons registered in respect of the ownership of any property in the parish shall be deemed to form part of the parliamentary register of electors for the parish within the meaning of this section.

(3.) The lists and register of electors in any parish shall be framed in parts for wards of urban districts and parishes in such manner that they may be conveniently used as lists for polling at elections for any such wards.

(4.) Nothing in any Act shall prevent a person, if duly qualified, from being registered in more than one register of parochial electors.

(5.) Where in that portion of the parliamentary register of electors which relates to a parish a person is entered to vote in a polling district other than the district comprising the parish, such person shall be entitled to vote as a parochial elector for that parish, and in addition to an asterisk there shall be placed against his name a number consecutive with the other numbers in the list.

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51 Vict. c. 10.

41 & 42 Vict.
c. 26.48 & 49 Vict.
c. 19.

(6.) Where the revising barrister in any list of voters for a parish would—

- (a.) In pursuance of section seven of the County Electors Act, 1888, place an asterisk or other mark against the name of any person ; or
- (b.) In pursuance of section four of the Registration Act, 1885, erase the name of any person otherwise than by reason of that name appearing more than once in the lists for the same parish ; or
- (c.) In pursuance of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878, as amended by section five of the Registration Act, 1885, place against the name of a person a note to the effect that such person is not entitled to vote in respect of the qualification contained in the list,

the revising barrister shall, instead of placing that mark or note, or erasing the name, place against the name, if the person is entitled to vote in respect of that entry as a county elector or burgess, a mark signifying that his name should be printed in division three of the list, or if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to be registered as a parochial elector, and the name so marked shall not be printed in the parliamentary register of electors, but shall be printed, as the case requires, either in division three of the local government register of electors, or in a separate list of parochial electors.

(7.) Where the name of a person is entered both in the ownership list and in the occupation list of voters in the same parish, and the revising barrister places against that name a mark or note signifying that the name should be printed in division three of the lists, an asterisk or other mark shall be there printed against the name, and such person shall not be entitled to vote as a parochial elector in respect of that entry.

(8.) Such separate list shall form part of the register of parochial electors of the parish, and shall be printed at the end of the other lists of electors for the parish, and the names shall be numbered consecutively with the other names on those lists, and the law relating to the register of electors shall, with the necessary modifications, apply accordingly, and the lists shall, for the purposes of this Act, be deemed to be part of such register.

(9.) Any person may claim for the purpose of having his name entered in the parochial electors list, and the law relating to claims to be entered in lists of voters shall apply.

(10.) The clerk of the county council or town clerk, as the case may be, shall, in printing the lists returned to him by the revising barrister, do everything that is necessary for carrying into effect the provisions of this section with respect to the persons whose names are marked by the revising barrister in pursuance of this section.

Disqualifications
for parish or
district council.

46.—(1.) A person shall be disqualified for being elected or being a member or chairman of a council of a parish or of a district other than a borough or of a board of guardians if he—

- (a.) is an infant or an alien ; or
 - (b.) has within twelve months before his election, or since his election, received union or parochial relief ; or
 - (c.) has, within five years before his election or since his election, been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, been adjudged bankrupt, or made a composition or arrangement with his creditors ; or
 - (d.) holds any paid office under the parish council or district council or board of guardians, as the case may be ; or
 - (e.) is concerned in any bargain or contract entered into with the council or board, or participates in the profit of any such bargain or contract or of any work done under the authority of the council or board.
- (2.) Provided that a person shall not be disqualified for being elected or

being a member or chairman of any such council or board by reason of being interested—

- (a.) in the sale or lease of any lands or in any loan of money to the council or board, or in any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood ; or
- (b.) in any newspaper in which any advertisement relating to the affairs of the council or board is inserted ; or
- (c.) in any contract with the council or board as a shareholder in any joint stock company ; but he shall not vote at any meeting of the council or board on any question in which such company are interested, except that in the case of a water company or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the county council.
- (4.) Where a person is disqualified by being adjudged bankrupt or making a composition or arrangement with his creditors, the disqualification shall cease, in case of bankruptcy, when the adjudication is annulled, or when he obtains his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part, and, in case of composition or arrangement, on payment of his debts in full.
- (5.) A person disqualified for being a guardian shall also be disqualified for being a rural district councillor.

(6.) If a member of a council of a parish, or of a district other than a borough, or of a board of guardians, is absent from meetings of the council or board for more than six months consecutively, except in case of illness or for some reason approved by the council or board, his office shall on the expiration of those months become vacant.

(7.) Where a member of a council or board of guardians becomes disqualified for holding office, or vacates his seat for absence, the council or board shall forthwith declare the office to be vacant, and signify the same by notice signed by three members and countersigned by the clerk of the council or board, and notified in such manner as the council or board direct, and the office shall thereupon become vacant.

(8.) If any person acts when disqualified, or votes when prohibited under this section, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds.

(9.) This section shall apply in the case of any authority whose members are elected in accordance with this Act in like manner as if that authority were a district council, and in the case of London auditors as if they were members of a district council.

47.—(2.) A retiring parish councillor or chairman of a parish council or parish meeting shall be re-eligible.

48.—(2.) Rules framed under this Act by the Local Government Board in relation to elections shall, notwithstanding anything in any other Act, have effect as if enacted in this Act, and shall provide, amongst other things—

Supplemental provisions as to elections, polls, and tenure of office.

- (i.) for every candidate being nominated in writing by two parochial electors as proposer and seconder and no more ;
- (ii.) for preventing an elector at an election for a union or for a district not a borough from subscribing a nomination paper or voting in more than one parish or other area in the union or district ;
- (iii.) for preventing an elector at an election for a parish divided into parish wards from subscribing a nomination paper or voting for more than one ward ;
- (iv.) for fixing or enabling the county council to fix the day of the poll and the hours during which the poll is to be kept open, so, however, that the poll shall always be open between the hours of six and eight in the evening ;

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35 & 36 *Vict.*
c. 33.
 47 & 48 *Vict.*
c. 70.
 45 & 46 *Vict.*
c. 50.

- (v.) for the polls at elections held at the same date and in the same area being taken together, except where this is impracticable ;
- (vi.) for the appointment of returning officers for the elections.

(3.) At every election regulated by rules framed under this Act, the poll shall be taken by ballot, and the Ballot Act, 1872, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and sections seventy-four and seventy-five and Part IV. of the Municipal Corporations Act, 1882, as amended by the last-mentioned Act (including the penal provisions of those Acts) shall, subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election. Provided that—

- (a) section six of the Ballot Act, 1872, shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes ; and

- (b) section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall apply as if the election were an election mentioned in the First Schedule to that Act.

(4.) The provisions of the Municipal Corporations Act, 1882, and the enactments amending the same, with respect to the expenses of elections of councillors of a borough, and to the acceptance of office, resignation, re-eligibility of holders of office, and the filling of casual vacancies, and section fifty-six of that Act, shall, subject to the adaptations, alterations, and exceptions made by the said rules, apply in the case of guardians and of district councillors of a county district not a borough, and of members of the local board of Woolwich, and of a vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same. Provided that—

- (a.) the provisions as to resignation shall not apply to guardians, and district councillors of a rural district shall be in the same position with respect to resignation as members of a board of guardians ; and

- (b.) nothing in the enactments applied by this section shall authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election ; and

- (c.) the rules may provide for the incidence of the charge for the expenses of the elections of guardians being the same as heretofore.

(5.) If any difficulty arises as respects the election of any individual councillor or guardian, or member of any such local board or vestry as aforesaid, or auditor, and there is no provision for holding another election, the county council may order a new election to be held and give such directions as may be necessary for the purpose of holding the election.

(6.) Any ballot boxes, fittings, and compartments provided by or belonging to any public authority, for any election (whether parliamentary, county council, municipal, school board, or other), shall, on request, and if not required for immediate use by the said authority, be lent to the returning officer for an election under this Act, upon such conditions and either free of charge or, except in the prescribed cases, for such reasonable charge as may be prescribed.

(7.) The expenses of any election under this Act shall not exceed the scale fixed by the county council, and if at the beginning of one month before the first election under this Act a county council have not framed any such scale for their county, the Local Government Board may frame a scale for the county, and the scale so framed shall apply to the first election, and shall have effect as if it had been made by the county council, but shall not be alterable until after the first election.

Parish and District Councils.

51. A public notice given by a parish council for the purposes of this Act, or otherwise for the execution of their duties, and a public notice of a parish meeting, shall be given in the manner required for giving notice of vestry meetings, and by posting the notice in some conspicuous place or places within the parish, and in such other manner (if any) as appears to the council or to the persons convening the meeting desirable for giving publicity to the notice. Public notices.

55.—(1.) Where a parish is divided or united or grouped with another parish by an order in pursuance of this Act each new parish or group so formed shall bear such name as the order directs. Power to change name of district or parish.

(2.) Where a parish is divided by this Act, each parish so formed shall bear such name as the county council direct.

(3.) Any district council may, with the sanction of the county council, change their name and the name of their district.

(4.) Every change of name made in pursuance of this section shall be published in such manner as the authority authorising the change may direct, and shall be notified to the Local Government Board.

(5.) Any such change of name shall not affect any rights or obligations of any parish, district, council, authority, or person, or render defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name.

59.—(1.) Section one hundred and ninety-nine and Schedule I. of the Public Health Act, 1875, so far as that schedule is unrepealed (which relate to the meetings of urban authorities, and to the meetings and proceedings of local boards), shall apply in the case of every urban district council other than a borough council and of every rural district council and board of guardians, as if such district council or board were a local board, except that the chairman of the council or board may be elected from outside the councillors or guardians. Supplemental provisions as to district councils. 38 & 39 Vict. c. 55.

(2.) Any urban district council other than a borough council, and any rural district council and board of guardians may, if they think fit, appoint a vice-chairman to hold office during the term of office of chairman, and the vice-chairman shall, in the absence or during the inability of the chairman, have the powers and authority of the chairman.

(5.) If any district council, other than a borough council, become unable to act, whether from failure to elect or otherwise, the county council of the county in which the district is situate may order elections to be held and may appoint persons to form the district council until the newly elected members come into office.

Miscellaneous.

60.—(1.) The council of each county may, from time to time, by order, fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and for those purposes may exercise powers of adding parishes to each other and dividing parishes into wards, similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Local Government Board. Supplemental provisions as to guardians.

(2.) The council of each county may for the purpose of regulating the retirement of guardians or rural district councillors, in cases where they retire by thirds, and in order that as nearly as may be one third of the persons elected as guardians for the union, and one third of the persons elected as rural district councillors for the district, shall retire in each year, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire.

(3.) Where a poor law union is situate in more than one county, the

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power under this section of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and of district councillors, shall be exercised by a joint committee of the councils of the counties concerned, but if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee.

Provided that if any order under this sub-section is, within six weeks after the making thereof, objected to by any of the county councils concerned, or by any committee of any of those councils authorised in that behalf, it shall be of no effect until confirmed by the Local Government Board.

(4.) Where under any local and personal Act guardians of a poor law union are elected for districts, whether called by that name or not, the provisions of this Act with respect to the election of guardians shall apply as if each of the districts were a parish.

(6.) Nothing in this Act shall alter the constitution of the corporation of the guardians of the poor within the city of Oxford, or the election or qualification of the members thereof, except those members who are elected by the ratepayers of parishes.

73. When the day on which any thing is required by or in pursuance of this Act to be done is Sunday, Christmas Day, or Good Friday, or a bank holiday, that thing shall be done on the next following day, not being one of the days above mentioned.

75.—(1.) The definition of “parish” in section one hundred of the Local Government Act, 1888, shall not apply to this Act, but, save as aforesaid, expressions used in this Act shall, unless the context otherwise requires, have the same meaning as in the said Act.

(2.) In this Act, unless the context otherwise requires—

Any reference to population means the population according to the census of one thousand eight hundred and ninety-one.

The expression “parochial elector,” when used with reference to a parish in an urban district, or in the county of London or any county borough, means any person who would be a parochial elector of the parish if it were a rural parish.

The expression “election” includes both the nomination and the poll.

The expression “trustees” includes persons administering or managing any charity or recreation ground, or other property or thing in relation to which the word is used.

The expression “ecclesiastical charity” includes a charity, the endowment whereof is held for some one or more of the following purposes :—

(a.) for any spiritual purpose which is a legal purpose ; or

(b.) for the benefit of any spiritual person or ecclesiastical officer as such ; or

(c.) for use, if a building, as a church, chapel, mission room, or Sunday school, or otherwise, by any particular church or denomination ; or

(d.) for the maintenance, repair, or improvement of any such building as aforesaid, or for the maintenance of divine service therein ; or

(e.) otherwise for the benefit of any particular church or denomination, or of any members thereof as such.

Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act ; and the Charity Commissioners shall, on application by any person interested, make such provision for the apportionment and management of that endowment as seems to them necessary or expedient for giving effect to this Act.

The expression shall also include any building which in the opinion of the Charity Commissioners has been erected or provided within forty

Provision as to
Sundays and
bank holidays.

Construction of
Act.
51 & 52 Vict.
c. 41.

years before the passing of this Act mainly by or at the cost of members of any particular church or denomination.

The expression "affairs of the church" shall include the distribution of offertories or other collections made in any church.

The expression "parochial charity" means a charity the benefits of which are or the separate distribution of the benefits of which is confined to inhabitants of a single parish, or of a single ancient ecclesiastical parish divided into two or more parishes, or of not more than five neighbouring parishes.

The expression "vestry" in relation to a parish means the inhabitants of the parish whether in vestry assembled or not, and includes any select vestry either by statute or at common law.

The expression "rateable value" means the rateable value stated in the valuation list in force, or, if there is no such list, in the last poor rate.

The expression "county" includes a county borough, and the expression "county council" includes the council of a county borough.

The expression "elementary school" means an elementary school within the meaning of the Elementary Education Act, 1870.

The expression "local and personal Act" includes a Provisional Order confirmed by an Act and the Act confirming the Order.

33 & 34 Vict.
c. 75.

The expression "prescribed" means prescribed by order of the Local Government Board.

PART V.

TRANSITORY PROVISIONS.

79.—(1.) The existing boards of guardians and urban and rural sanitary authorities shall take the necessary measures for the conduct of the first elections of guardians and district councillors respectively under this Act, including any appointment of returning officers required by rules under this Act. First elections of guardians and district councils.

(2.) Where a parish is divided by this Act into two or more new parishes, then, subject to any order made by the county council, there shall be one guardian, and if it is in a rural district, one district councillor for each of such new parishes.

(3.) Of the guardians and urban and rural district councillors first elected under this Act, save as hereinafter mentioned, one third as nearly as may be shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-six, and shall then retire; and one third as nearly as may be shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-seven, and shall then retire; and the remainder shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-eight, and shall then retire.

(4.) The guardians and rural district councillors to retire respectively on the fifteenth day of April one thousand eight hundred and ninety-six and on the fifteenth day of April one thousand eight hundred and ninety-seven shall be the guardians and rural district councillors for such parishes, wards, or other areas, as may be determined by the county council for the purpose of the rotation.

(5.) Where guardians or rural district councillors retire together at the end of the triennial period, the guardians and district councillors first elected under this Act shall retire on the fifteenth day of April one thousand eight hundred and ninety-eight.

(6.) Of the first urban district councillors elected under this Act, the third who are respectively to retire on the fifteenth day of April one thousand eight hundred and ninety-six and one thousand eight hundred and ninety-seven shall be determined according to their place on the poll at the election, those that were lowest on the poll retiring first. If there was no poll, or if a question arises in consequence of an equality of votes between

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two or more councillors, the matter shall be determined by ballot conducted under the direction of the council.

(7.) In the case of an urban district divided into wards, the foregoing provisions with respect to retirement shall apply separately to each ward.

(8.) Upon the day on which the first guardians and urban or rural district councillors elected under this Act come into office, the persons who are then members of boards of guardians, and urban and rural sanitary authorities, shall cease to hold office, but until that day the persons who are at the passing of this Act guardians and members of urban sanitary authorities (for urban districts not being boroughs) and of highway boards shall continue in office notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day, and, except for the purpose of filling casual vacancies or electing additional guardians, no further elections shall be held.

(9.) The first meeting of each district council elected under this Act shall be convened by the returning officer.

(10.) The foregoing provisions shall apply to the existing members and first members elected under this Act of the local board of Woolwich and of any vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same, and to the existing and first auditors elected under those Acts in like manner as if they were members of urban sanitary authorities or urban district councillors, as the case may require, except that the date of the annual election shall be substituted for the fifteenth day of April.

(11.) The overseers of any parish divided by this Act shall, until the first appointment of overseers next after the appointed day, continue in office as if they were overseers of each part of the said parish, which by reason of such division becomes a separate parish.

Power of county council to remove difficulties.

80.—(1.) If any difficulty arises with respect to the holding of the first parish meeting of a rural parish, or to the first election of parish or district councillors, or of guardians, or of members of the local board of Woolwich, or any vestry in the county of London, or of auditors in the county of London, or to the first meeting of a parish or district council, or board of guardians, or such local board or vestry as aforesaid, or if, from no election being held or an election being defective or otherwise, the first parish or district council, or board of guardians, or local board or vestry has not been properly constituted, or there are no auditors under the Metropolis Management Acts, 1855 to 1890, or an insufficient number, properly elected, the county council may by order make any appointment or do any thing which appears to them necessary or expedient for the proper holding of any such first meeting or election and properly constituting the parish or district council, board of guardians, local board, or vestry, or auditors, and may, if it appears to them necessary, direct the holding of a meeting or election, and fix the dates for any such meeting or election, but a parish shall, notwithstanding any such failure to constitute the parish council, be deemed to be a parish having a parish council within the meaning of this Act. Any such order may modify the provisions of this Act, and the enactments applied by or rules framed under this Act so far as may appear to the county council necessary or expedient for carrying the order into effect.

(2.) The Local Government Board shall make regulations for expediting and simplifying the procedure under section fifty-seven of the Local Government Act, 1888, in all cases in the year one thousand eight hundred and ninety-four, for the purpose of bringing this Act into immediate operation, and such regulations may dispense with the final approval of an order by the county council in cases where the prescribed notice of the proposed order has been given before it is made by the county council.

Appointed day.

84.—(1.) The first elections under this Act shall be held on the eighth day of November next after the passing of this Act, or such later date or dates in the year one thousand eight hundred and ninety-four as the Local Government Board may fix.

(2.) The persons elected shall come into office on the second Thursday

next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of the rules made under this Act in relation to their election.

(3.) Every division into wards or alteration of the boundaries of any parish or union or district which is to affect the first election shall, if it affects the parishes or parts for which the registers of parochial electors will be made, be made so far as practicable before the first day of July next after the passing of this Act, and any such division or alteration which after the appointed day may be made on application by the parish council or any parochial electors of any parish, may be made before the appointed day on application by the vestry or a like number of the ratepayers of the parish.

Provided that—

- (a.) If any county council having any such division or alteration under consideration so direct, the lists of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish, union, or district, or for the same when divided or altered; and
- (b.) If the county council making such division or alteration on or after the said day and on or before the last day of August one thousand eight hundred and ninety-four so direct, the clerk of the county council shall make such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward, union, or district in which his qualification is situate, and in that case the said division or alteration shall be observed in the case of that election.
- (4.) Subject as in this Act mentioned, “the appointed day” shall,
 - (a.) for the purpose of elections and of parish meetings in parishes not having a parish council, be the day or respective days fixed for the first elections under this Act, or such prior day as may be necessary for the purpose of giving notices or doing other acts preliminary to such elections; and
 - (b.) for the purpose of the powers, duties, and liabilities of councils or other bodies elected under this Act, or other matters not specifically mentioned, be the day on which the members of such councils or other bodies first elected under this Act come into office; and
 - (c.) for the purpose of powers, duties, and liabilities transferred to a council of a borough by this Act, be the first day of November next after the passing of this Act;

and the lists and registers of parochial electors shall be made out in such parts as may be necessary for the purpose of the first elections under this Act.

Provided that where an order of a county council postpones the operation of the section with respect to highways as respects their county or any part thereof the day on which such postponement ceases shall, as respects such county or part, be the appointed day, and the order of postponement shall make such provision as may be necessary for holding elections of highway boards during the interval before the appointed day.

89. The Acts specified in the Second Schedule to this Act are hereby repealed as from the appointed day to the extent in the third column of that schedule mentioned, and so much of any Act, whether public general or local and personal, as is inconsistent with this Act is also hereby repealed. Provided that where any words of an urban district have been created, or any number of members of an urban sanitary authority fixed, by or in pursuance of any local and personal Act, such wards and number of members shall continue and be alterable in like manner as if they had been fixed by an order of the county council under this or any other Act.

1883.

GENERAL RULES

FOR THE EFFECTUAL EXECUTION OF PART IV.
OF "THE MUNICIPAL CORPORATIONS ACT, 1882,"

MADE BY

SIR CHARLES EDWARD POLLOCK, Knight ;
SIR HENRY MANISTY, Knight ; and
SIR HENRY CHARLES LOPES, Knight ;THE JUDGES FOR THE TIME BEING ON THE ROTA FOR THE TRIAL
OF PARLIAMENTARY ELECTION PETITIONS.

1. The presentation of a municipal election petition shall be made by leaving it at the office of the Master for the time being nominated as prescribed officer, under the Parliamentary Elections Act, 1868, and such master or his clerk shall (if required) give a receipt which may be in the following form :—

Received on the _____ day of _____ at
the Master's office a petition touching the election of *A.B.*,
alderman, councillor, [*&c. as the case may be*] for the borough of
purporting to be signed by [*insert the names of*
Petitioners].

C.D., Master's Clerk.

With the petition shall also be left a copy thereof for the Master to send to the town clerk, pursuant to section 88, sub-section (3), of the Act.

2. A municipal election petition shall contain the following statements :

(1.) It shall state the right of the petitioner or petitioners to petition within section 88, sub-section (1), of the Act.

(2.) It shall state the holding and result of the election, and shall briefly state the facts and grounds relied on to sustain the prayer.

3. The petition shall be divided into paragraphs, each of which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively, and no costs shall be allowed of drawing or copying any petition not substantially in compliance with this rule, unless otherwise ordered by the High Court or a judge thereof.

4. The petition shall conclude with a prayer, as for instance, that some specified person should be declared duly returned or elected, or that the

election should be declared void, or that a return may be enforced, (as the case may be,) and shall be signed by all the petitioners.

5. The following form, or one to the like effect, shall be sufficient :—

In the High Court of Justice,

“The Municipal Corporations Act, 1882.”

Election for [state the place and office for which election held] holden
on the day of A.D.

The petition of *A.* of [or of *A.* of , and *B.*
of as the case may be] whose names are subscribed.

(1.) Your petitioner *A.* is a person who voted [or had a right to vote, as the case may be] at the above election, [or was a candidate at the above election]; and your petitioner *B.*, [here state in like manner the right of each petitioner].

(2.) And your petitioners state that the election was holden on the
day of A.D. , when *A.B.*, *C.D.*, and
E.F. were candidates, and that *A.B.* and *C.D.* have been in the usual
manner declared to be duly elected.

(3.) And your petitioners say that [here state the facts and grounds on which the petitioners rely].

Wherefore your petitioners pray that it may be determined that the said *A.B.* was not duly elected, and that the election was void [or that the said *E.F.* was duly elected and ought to have been returned, or as the case may be].

(Signed)

A.

B.

6. Evidence need not be stated in the petition, but the High Court or a judge thereof may order such particulars as may be necessary to prevent surprise and unnecessary expense, and to insure a fair and effectual trial in the same way as in ordinary proceedings in the said High Court, and upon such terms as to costs and otherwise as may be ordered.

7. When a petitioner claims the office for an unsuccessful candidate, alleging that he had a majority of lawful votes, the party complaining of or defending the election shall, six days before the day appointed for trial, deliver to the Master and also at the address, if any given by the petitioners and respondent, as the case may be, a list of the votes intended to be objected to, and the heads of objection to each such vote, and the Master shall allow inspection and office copies of such lists to all parties concerned; and no evidence shall be given against the validity of any vote, nor upon any head of objection not specified in the list, except by leave of the High Court or a judge thereof, upon such terms as to amendment of the list, postponement of the inquiry, and payment of costs, as may be ordered.

8. When the respondent in a petition under the Act complaining of an undue election, and claiming the office for some person, intends to give evidence to prove that the election of such person was undue, pursuant to the 93rd section of the Act, sub-section 10, such respondent shall, six days before the day appointed for trial, deliver to the Master, and also at the address, if any, given by the petitioner, a list of the objections to the election upon which he intends to rely, and the Master shall allow inspection and office copies of such list to all parties concerned; and no evidence shall be given by a respondent of any objection to the election not specified in the list, except by leave of the High Court or a judge thereof, upon such terms as to amendment of the list, postponement of the inquiry, and payment of costs, as may be ordered.

9. With the petition the petitioner or petitioners shall leave at the office of the Master a writing, signed by him or them or on his or their behalf, giving the name of some person entitled to practise as a solicitor in the High Court of Justice, whom he or they authorize to act as his or their

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agent, or stating that he or they act for himself or themselves, as the case may be, and in either case giving an address, within three miles from the General Post Office, at which notices addressed to him or them may be left; and if no such writing be left or address given, then notice of objection to the recognizances, and all other notices and proceedings may be given by sticking up the same at the Master's office.

10. Any person elected to any municipal office may at any time after he is elected send to or leave at the office of the Master a writing, signed by him or on his behalf, appointing a person entitled to practise as a solicitor in the High Court of Justice, to act as his agent in case there should be a petition against him, or stating that he intends to act for himself, and in either case giving an address within three miles from the General Post Office at which notices may be left, and in default of such writing being left in a week after service of the petition, notices and proceedings may be given and served respectively by sticking up the same at the Master's office.

11. The Master shall keep a book or books at his office in which he shall enter all addresses and the names of agents given under either of the preceding rules, which book shall be open to inspection by any person during office hours.

12. The Master shall, upon the presentation of the petition, forthwith send a copy of the petition to the town clerk, pursuant to section 88 of the Act, sub-section (3), and shall therewith send the name of the petitioner's agent, if any, and the address, if any, given as prescribed, and also the name of the respondent's agent, and the address, if any, given as prescribed, and the town clerk shall forthwith publish those particulars along with the petition.

The cost of publication of this and any other matter required to be published by the town clerk shall be paid by the petitioner or person moving in the matter, and shall form part of the general costs of the petition.

13. The time for giving notice of the presentation of a petition and of the nature of the proposed security, shall be five days, exclusive of the day of presentation.

14. Where the respondent has named an agent or given an address, the service of a municipal election petition may be by delivery of it to the agent, or by posting it in a registered letter to the address given at such time that, in the ordinary course of post, it would be delivered within the prescribed time.

In other cases the service must be personal on the respondent, unless a judge of the High Court, on an application made to him not later than five days after the petition is presented on affidavit, showing what has been done, shall be satisfied that all reasonable effort had been made to effect personal service and cause the matter to come to the knowledge of the respondent, in which case the judge may order that what has been done shall be considered sufficient service, subject to such conditions as he may think reasonable. An agent employed for the petitioner or respondent shall forthwith leave written notice at the office of the Master of his appointment to act as such agent, and service of notices and proceedings upon such agent shall be sufficient for all purposes.

15. In case of evasion of service the sticking up a notice in the office of the Master of the petition having been presented, stating the petitioner, the prayer, and the nature of the proposed security, shall be deemed equivalent to personal service if so ordered by a judge.

16. The deposit of money by way of security for payment of costs, charges, and expenses payable by the petitioner, shall be made by payment into the Bank of England to an account to be opened there by the description of "The Municipal Corporations Act, 1882, Security Fund," which shall be vested in and drawn upon from time to time by the Lord Chief Justice of England for the time being, for the purposes for which security

is required by the said Act, and a bank receipt or certificate for the same shall be forthwith left at the Master's office.

17. The Master shall file such receipt or certificate, and keep a book open to inspection of all parties concerned, in which shall be entered from time to time the amount and the petition to which it is applicable.

18. All claims at law or in equity to money so deposited or to be deposited in the Bank of England shall be disposed of by the High Court of Justice or a judge thereof.

19. Money so deposited shall, if, and when the same is no longer needed for securing payment of such costs, charges, and expenses, be returned or otherwise disposed of as justice may require, by rule of the High Court, or order of a judge thereof.

20. Such rule or order may be made after such notice of intention to apply, and proof that all just claims have been satisfied or otherwise sufficiently provided for, as the court or judge may require.

21. The rule or order may direct payment either to the party in whose name the same is deposited, or to any person entitled to receive the same.

22. Upon such rule or order being made, the amount may be drawn for by the Lord Chief Justice of England for the time being.

23. The draft of the Lord Chief Justice of England for the time being shall in all cases be a sufficient warrant to the Bank of England for all payments made thereunder.

24. The recognizance as security for costs may be acknowledged before a judge of the High Court or the Master in town, or a justice of the peace in the country.

There may be one recognizance acknowledged by all the sureties, or separate recognizances by one or more, as may be convenient.

24. The recognizance shall contain the name and usual place of abode of each surety, with such sufficient description as shall enable him to be found or ascertained, and may be as follows:—

Be it remembered that on the day of in the year of our Lord 18 , before me [name and description] came A.B., of [name and description as above prescribed] and acknowledged himself [or severally acknowledged themselves] to owe to our Sovereign Lady the Queen the sum of five hundred pounds [or the following sums], (that is to say) the said C.D. the sum of £ , the said E.F. the sum of £ , the said G.H. the sum of £ , and the said J.K. the sum of £ , to be levied on his [or their respective] goods and chattels, lands, and tenements, to the use of our said Sovereign Lady the Queen, her heirs and successors.

The condition of this recognizance is that if [here insert the names of all the petitioners, and if more than one, add, or any of them] shall well and truly pay all costs, charges, and expenses in respect of the election petition signed by him [or them] relating to the [here insert the name of the borough] which shall become payable by the petitioner [or petitioners, or any of them,] under the Municipal Corporations Act, 1882, to any person or persons, then this recognizance to be void, otherwise to stand in full force.

Signed,

[Signature of sureties.]

Taken and acknowledged by the above-named [name of sureties] on the at , before me,

C.D.

A justice of the peace [or, as the case may be].

26. The recognizance or recognizances shall be left at the Master's office, by or on behalf of the petitioner in like manner as before prescribed for the leaving of a petition forthwith after being acknowledged.

The security may (unless the High Court or a judge thereof shall otherwise order on summons) be given to any amount not less than £300; but the High Court or a judge thereof may, on summons taken out within five

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days from the service of the notice of the nature and amount of the security, order that the same shall be increased within a time to be fixed in the order by further security to be given in the manner directed by the Act, for a further amount, not exceeding with the amount for which security shall have been already given £500. And in default of compliance with such order, no further proceedings shall be had on the petition.

27. The time for giving notice of any objection to a recognizance under the 89th section of the Act, sub-section (4), shall be within five days from the date of service of the notice of the petition and of the nature of the security, exclusive of the day of service, or in case of further security within five days after service of notice of the nature thereof, exclusive of the day of such service.

28. An objection to the recognizance must state the ground or grounds thereof, as that the sureties, or any and which of them, are insufficient, or that a surety is dead, or that he cannot be found, or that a person named in the recognizance has not duly acknowledged the same.

29. Any objection made to the security shall be heard and decided by the Master, subject to appeal within five days to a judge, upon summons taken out by either party to declare the security sufficient or insufficient.

30. Such hearing and decision may be either upon affidavit or personal examination of witnesses, or both, as the Master or judge may think fit.

31. If an objection be allowed and the security be declared insufficient, the Master or judge shall in his order state what amount he deems requisite to make the security sufficient, and the further prescribed time to remove the objection by deposit shall be within five days from the date of the order, not including the day of the date, and such deposit shall be made in the manner already prescribed.

32. The costs of hearing and deciding the objections made to the security given shall be paid as ordered by the Master or judge, and in default of such order shall form part of the general costs of the petition.

33. The costs of hearing and deciding an objection upon the ground of insufficiency of a surety or sureties shall be paid by the petitioner, and a clause to that effect shall be inserted in the order declaring its sufficiency or insufficiency, unless at the time of leaving the recognizance with the Master there be also left with the Master an affidavit of the sufficiency of the surety or sureties sworn by each surety before a justice of the peace, which affidavit any justice of the peace is hereby authorized to take, or before some person authorized to take affidavits in the High Court of Justice that he is seised or possessed of real or personal estate, or both, above what will satisfy his debts, of the clear value of the sum for which he is bound by his recognizance, which affidavit may be as follows :

In the High Court of Justice.

Municipal Corporations Act, 1882.

I, *A. B.*, of [*as in recognizance*] make oath and say that I am seised or possessed of real [*or personal*] estate above what will satisfy my debts, of the clear value of £

Sworn, &c.

34. The order of the Master for payment of costs shall have the same force as an order made by a judge, and may be enforced in like manner as a judge's order in an ordinary proceeding in the High Court of Justice.

35. A copy of every order (other than an order giving further time for delivering particulars, or for costs only), or, if the Master shall so direct, the order itself or a duplicate thereof, also a copy of every particular delivered, shall be forthwith filed with the Master, and the same shall be produced at the trial by the registrar, stamped with the official seal. Such order shall be filed by the party obtaining the same, and such particular by the party delivering the same.

36. The petitioner or his agent shall, immediately after notice of the presentation of a petition and of the nature of the proposed security

shall have been served, file with the Master an affidavit of the time and manner of service thereof.

37. The days mentioned in rules 7 and 8, and in any rule of court or judge's order, whereby particulars are ordered to be delivered, or any act is directed to be done, so many days before the day appointed for trial, shall be reckoned exclusively of the day of delivery, or of doing the act ordered and the day appointed for trial, and exclusively also of Sunday, Christmas-day, Good Friday, and any day set apart for a public fast or public thanksgiving.

38. When the last day for presenting petitions, or filing lists of votes or objections, under rules 7 and 8, or recognizances, or any other matter required to be filed within a given time, shall happen to fall on a holiday, the petition or other matter shall be deemed duly filed if put into the letter box at the Master's office at any time during such day; but an affidavit, stating with reasonable precision the time when such delivery was made, shall be filed on the first day after the expiration of the holidays.

39. The Master shall make out the municipal election list. In it he shall insert the names of the agents of the petitioners and respondents, and the addresses to which notices may be sent, if any. The list may be inspected at the Master's office at any time during office hours, and shall be put up for that purpose upon a notice board appropriated to proceedings under the said Act, and headed "Municipal Election List."

40. The time of the trial of each municipal election petition shall be fixed by the election judges on the rota or any one of them, who shall signify the same to the Master, and notice thereof shall be given in writing by the Master by sticking notice up in his office, sending one copy by post to the address given by the petitioner, another to the address given by the respondent, if any, and a copy by the post to the town clerk of the borough to which the petition relates, fifteen days before the day appointed for the trial.

The town clerk shall forthwith publish the same in the borough.

41. The sticking up of the notice of trial at the office of the Master shall be deemed and taken to be notice in the prescribed manner within the meaning of the Act, and such notice shall not be vitiated by any miscarriage of or relating to the copy or copies thereof to be sent as already directed.

42. The notice of trial may be in the following form :—

Municipal Corporations Act, 1882.

Election petition of

Borough of

Take notice that the above petition [*or* petitions] will be tried
at on the
day of and on such other subsequent days as may
be needful.

Dated the

day of

Signed, by order,

A.B.,

The Master appointed under the above Act.

43. A judge may from time to time, by order made upon the application of a party to the petition, or by notice in such form as the judge may direct to be sent to the town clerk, postpone the beginning of the trial to such day as he may name, and such notice when received shall be forthwith made public by the town clerk.

44. In the event of the barrister to whom the trial of the petition is assigned not having arrived at the time appointed for the trial, or to which the trial is postponed, the commencement of the trial shall *ipso facto* stand adjourned to the ensuing day, and so from day to day.

45. No formal adjournment of the court for the trial of a municipal election petition shall be necessary, but the trial is to be deemed adjourned, and may be continued from day to day until the inquiry is concluded.

46. After receiving notice of the petitioner's intention to apply for leave

to withdraw, or of the respondent's intention not to oppose, or of the abatement of the petition by death, or of the happening of any of the events mentioned in the 97th section of the Act, if such notice be received after notice of trial shall have been given, and before the trial has commenced, the Master shall forthwith countermand the notice of trial. The countermand shall be given in the same manner, as near as may be, as the notice of trial.

47. If all the respondents shall give notice of their intention not to oppose the petition, and no other person shall be admitted as a respondent, the High Court of Justice, or a judge, may either declare the election void or direct the trial to proceed. Notice of such order shall be forthwith given by the Master to the town clerk, and if the election be declared void the office shall be deemed to be vacant from the first day (not being a *dies non*) after the date of such order.

The court or judge may also make such order as to costs as may be just.

48. The application to state a special case may be made by motion in the High Court of Justice, or by a summons before a judge thereof.

49. The title of the court held for the trial of a municipal election petition may be as follows:—

“ Court for the trial of a municipal election petition for the	
borough of [<i>or</i>	<i>as may</i>
<i>be</i>] between	petitioner
and	respondent,”

and it shall be sufficient so to entitle all proceedings in that court.

50. An officer shall be appointed for each court for the trial of a municipal election petition by the election judges, at the time that they assign the petition to the barrister; such officer shall attend at the trial in like manner as the clerks of assize and of arraigns attend at the assizes.

Such officer may be called the registrar of that court. He, by himself, or in case of need, his sufficient deputy, shall perform all the functions incident to the officer of a court of record, and also such duties as may be prescribed to him.

51. The Commissioner may appoint a proper person to act as crier and officer of the court.

52. The shorthand writer to attend at the trial of a petition shall be the shorthand writer to the House of Commons for the time being or his deputy, and the Master shall send a copy of the notice of trial to the said shorthand writer to the House of Commons.

53. The amount to be paid to any witness whose expenses shall be allowed by the Commissioner trying the petition shall be ascertained and certified by the registrar; or in the event of his becoming incapacitated from giving such certificate, by the Commissioner.

54. The order of the court to compel the attendance of a person as a witness may be in the following form:—

Court for the trial of a municipal election petition for [*complete the title of the court*] the day of .

To *A.B.* [*describe the person*]. You are hereby required to attend before the above court at [*place*] on day of , at the hour of [*or forthwith, as the case may be*], to be examined as a witness in the matter of the said petition, and to attend the said court until your examination shall have been completed.

As witness my hand, *A.B.*,

The Commissioner to whom the trial of the said petition is assigned.

55. In the event of its being necessary to commit any person for contempt, the warrant may be as follows:

At a court holden on at for the trial of a municipal election petition for the borough of before *A.B.*, one of the barristers appointed for the trial of municipal election petitions, pursuant to “The Municipal Corporations Act, 1882.”

Whereas *C.D.* has this day been guilty, and is by the said court adjudged to be guilty, of a contempt thereof. The said Court does therefore sentence the said *C.D.* for his said contempt to be imprisoned in the gaol for _____ calendar months [*or as may be*], and to pay to our Lady the Queen a fine of £_____, and to be further imprisoned in the said gaol until the said fine be paid, and the court further orders that the sheriff of the borough [*if any or as the case may be*], and all constables and officers of the peace of any county, borough or place where the said *C.D.* may be found, shall take the said *C.D.* into custody and convey him to the said gaol, and there deliver him into the custody of the gaoler thereof, to undergo his said sentence; and the court further orders the said gaoler to receive the said *C.D.* into his custody, and that he shall be detained in the said gaol in pursuance of the said sentence.

Signed the _____ day of _____.

A.B.

56. Such warrant may be made out and directed to the sheriff or other person having the execution of process of the High Court as the case may be, and to all constables and officers of the peace of the county, borough, or place where the person adjudged guilty of contempt may be found, and such warrant shall be sufficient without further particularity, and shall and may be executed by the persons to whom it is directed or any or either of them.

57. All interlocutory questions and matters, except as to the sufficiency of the security, shall be heard and disposed of before a judge, who shall have the same control over the proceedings under the Municipal Corporations Act, 1882, as a judge in the ordinary proceedings of the High Court, and such questions and matters shall be heard and disposed of by any judge of the High Court.

58. Notice of an application for leave to withdraw a petition shall be in writing and signed by the petitioners or their agent.

It shall state the ground on which the application is intended to be supported.

The following form shall be sufficient :—

Municipal Corporations Act, 1882.

Borough of _____ Petition of [*state petitioners*]
presented _____ day of _____

The petitioner proposes to apply to withdraw his petition upon the following ground [*here state the ground*], and prays that a day may be appointed for hearing his application.

Dated this _____ day of _____

(Signed)

59. The notice of application for leave to withdraw shall be left at the Master's office.

60. A copy of such notice of the intention of the petitioner to apply for leave to withdraw his petition shall be given by the petitioner to the respondent, and to the town clerk, who shall cause the same to be published in the borough to which it relates.

The following may be the form of such notice :—

Municipal Corporations Act, 1882.

In the election petition for _____ in which
is petitioner and _____ respondent.

Notice is hereby given, that the above petitioner has on the _____ day of _____ lodged at the Master's office notice of an application to withdraw the petition, which notice the following is a copy [*set it out*].

And take notice that by the rule made by the judges, any person who might have been a petitioner in respect of the said election may, within five days after publication by the town clerk of this notice, give notice in writing of his intention on the hearing to apply for leave to be substituted as a petitioner.

61. Any person who might have been a petitioner in respect of the

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election to which the petition relates, may, within five days after such notice is published by the returning officer, give notice, in writing, signed by him or on his behalf, to the Master of his intention to apply at the hearing to be substituted for the petitioner, but the want of such notice shall not defeat such application, if in fact made at the hearing.

62. The time and place for hearing the application shall be fixed by a judge, and whether before the High Court, or before a judge, as he may deem advisable, but shall not be less than a week after the notice of the intention to apply has been given to the Master as hereinbefore provided, and notice of the time and place appointed for the hearing shall be given to such person or persons, if any, as shall have given notice to the Master of an intention to apply to be substituted as petitioners, and otherwise in such manner and at such time as the court or judge directs.

63. Notice of abatement of a petition, by death of the petitioner or surviving petitioner, under section 96, sub-section (1), of the said Act, shall be given by the party or person interested in the same manner as a notice of an application to withdraw a petition, and the time within which application may be made to the High Court, or a judge thereof, by motion or summons at chambers, to be substituted as a petitioner, shall be one calendar month, or such further time as upon consideration of any special circumstances the High Court or a judge thereof may allow.

64. If the respondent dies, any person entitled to be a petitioner under the Act in respect of the election to which the petition relates, may give notice of the fact in the borough by causing such notice to be published in at least one newspaper circulating therein, if any, and by leaving a copy of such notice signed by him or on his behalf with the town clerk, and a like copy with the master.

65. The manner of the respondent's giving notice that he does not intend to oppose the petition shall be by leaving notice thereof in writing at the office of the Master signed by the respondent.

66. Upon such notice being left at the Master's office, the Master shall forthwith send a copy thereof by the post to the petitioner or his agent, and to the town clerk, who shall cause the same to be published in the borough.

67. The time for applying to be admitted as a respondent in either of the events mentioned in the 97th section of the Act shall be within ten days after such notice is given as herein-before directed, or such further time as the High Court or a judge thereof may allow.

68. Costs shall be taxed by the Master, or at his request by any Master of the superior court upon the rule of court or judge's order by which the costs are payable, and costs when taxed may be recovered in like manner as if payable under a rule of court, judgment, or order of a judge in the ordinary proceedings in the High Court of Justice, or in case there be money in the Bank available for the purpose, then to the extent of such money by order of the Lord Chief Justice of England for the time being.

The office fees payable for inspection, office copies, enrolment, and other proceedings under the Act and these rules, shall be the same as those payable, if any, for like proceedings according to the present practice of the High Court of Justice.

69. No proceedings under the Municipal Corporations Act, 1882, shall be defeated by any formal objection.

70. Any rule made or to be made in pursuance of the Act shall be published by a copy thereof being put up at the Master's office.

Dated the 17th day of April 1883.

C. E. POLLOCK,

H. MANISTY,

HENRY C. LOPES,

The judges for the time being on the rota for the trial of Parliamentary Election Petitions.

CROWN OFFICE RULES, 1886.

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INFORMATIONS.

46. With the exception of ex-officio informations filed by the Attorney-General on behalf of the Crown no criminal information or information in the nature of a quo warranto shall be exhibited, received, or filed at the Crown Office Department without express order of the Queen's Bench Division in open court, nor shall any process be issued upon any information other than an ex-officio information, until the person procuring such information to be exhibited shall have filed at the Crown Office Department a recognizance in the penalty of £50 effectually to prosecute such information and to abide by and observe such orders as the court shall direct, such recognizance to be entered into before the Queen's coroner and attorney or the master of the Crown Office, or a justice of the peace of the county, borough, or place in which the cause may have arisen.

49. If the prosecutor on any information not ex-officio does not proceed to trial within a year after issue joined, or if the prosecutor causes a nolle prosequi to be entered, or if the defendant be acquitted, (unless the judge at the time of trial certifies that there was reasonable cause for the information,) the court, on motion for the same, may award the defendant his costs to the amount of the recognizance entered into by the prosecutor on filing the information.

QUO WARRANTO.

51. Every application for an information in the nature of a quo warranto shall be by motion to a Divisional Court for an order nisi, unless the same be ex-officio or be made in respect of a corporate office within the meaning of 45 & 46 Vict. c. 50, s. 225.

52. In respect of such a corporate office as in the last preceding rule mentioned, the application shall be by notice of motion to the person affected thereby to be served not less than ten days before the day specified in the notice for making the application.

53. The notice shall set forth the name and description of the applicant, and a statement of the grounds of the application, and the applicant shall deliver with the notice on service thereof a copy of the affidavits whereby the application will be supported.

54. No order for filing any information in the nature of a quo warranto shall be granted, unless at the time of moving an affidavit be produced by which some person shall depose upon oath that such motion is made at his instance as relator; and such person shall be deemed to be the relator in case such order shall be made absolute and shall be named as such relator in such information in case the same shall be filed, unless the Court shall otherwise order.

55. Every objection intended to be made to the title of a defendant on an information in the nature of a quo warranto shall be specified in the order to show cause or notice of motion, and no objection not so specified shall be raised by the relator on the pleadings without the special leave of the court or a judge.

56. The Court may discharge an order nisi for an information in the nature of a quo warranto with or without costs, and in its discretion may, upon such notice as may be just, direct the costs to be paid by the solicitor or other parties joining in the affidavits in support of the application, although he be not the proposed relator.

57. A new relator may by leave of the Court, on notice of motion, be substituted for the one who first enters into the recognizance on special circumstances being shown.

58. Where several orders nisi for informations in the nature of quo warranto have been granted against several persons for usurpation of the same offices, and all upon the same grounds of objection, the Court may order

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such orders to be consolidated, and only one information to be filed in respect of all of them, or may order all proceedings to be stayed upon all but one, until judgment be given in that one, provided always that no order be made to consolidate or stay any proceedings against any defendant unless he give an undertaking to disclaim, if judgment be given for the Crown, upon the information, which proceeds.

59. If a defendant on an information in the nature of a quo warranto does not intend to defend, he may to prevent judgment by default enter a disclaimer at the Crown Office Department and file a copy there, and deliver another copy to the relator or his solicitor. Upon the disclaimer being filed judgment of ouster may be entered at the Crown Office Department, and the costs taxed as in judgment by default.

APPEARANCE TO INFORMATION.

83. A defendant to any * * * information, * * * must enter or cause to be entered in a book at the Crown Office an appearance to such * * * information. * * *

90. When any information is filed and the defendant is under terms to appear immediately and does not enter an appearance, the prosecutor may serve a notice upon the defendant to appear within five days, and in default of appearance may move the Court *ex parte* for leave to enter an appearance for him, or if the notice was personally served for an attachment.

94. When any indictment has been found in, or removed into the Queen's Bench Division at the instance of the prosecutor, or of one or more of several defendants, the prosecutor may, instead of applying for a warrant under rules 85, 86, 87, issue a writ of *venire facias* against such defendants as are not parties to the removal of the indictment, or defendants under recognizance to answer, or in the case of an information may issue either a subpoena to answer, or a *venire facias* if it is intended to proceed to outlawry.

95. If the defendant does not appear within four days after the day named in the subpoena to answer, the prosecutor upon filing an affidavit of due service of the subpoena to answer may issue a writ of attachment.

PLEADINGS.

(B.)—*Pleadings in Quo Warranto.*

134. When any information in the nature of a quo warranto has been filed, the defendant may plead to such information within such time, and in like manner as if the information were a statement of claim delivered in an action, and subject to these Rules this pleading and all subsequent proceedings, including pleadings, trial, judgment, and execution, shall proceed and may be had and taken as if in an action, and where the judgment is for the relator judgment of ouster may be entered for him in all cases.

135. The prosecutor in answer to a plea that the defendant has held and executed the office or franchise for six years before exhibiting the information may reply any forfeiture, surrender, or avoidance by the defendant within the said six years.

(Signed) HALSBURY, C.
COLERIDGE, C.J.
ESHER, M.R.
JAMES HANNEN, Prest. P.D.A.
NATHL. LINDLEY, L.J.
EDW. FRY, L.J.
C. E. POLLOCK, B.
H. MANISTY, J.

December 18, 1885.

RULES AS TO NOMINATION AND ELECTION OF GUARDIANS (OUTSIDE LONDON), 1894.

General Order, 29th September, 1894.

To the COUNTY COUNCIL of every ADMINISTRATIVE COUNTY in England and Wales, except the Administrative County of London ;—

To the Mayor, Aldermen, and Burgesses of every County Borough in England and Wales ;—

To the Board of Guardians of every Poor Law Union in England and Wales which on the “appointed day” will be co-extensive with or will contain an Urban Parish ;—

To the Overseers of the Poor of every Urban Parish in England and Wales ;—

To the Clerk to the Guardians of every such Poor Law Union as aforesaid ;—

To the Clerk to the Urban Sanitary Authority of every Urban Sanitary District other than a Borough ;—

And to all others whom it may concern.

WHEREAS by Section 20 of the Local Government Act, 1894, which is included in Part II. of that Act, it is, amongst other things, enacted as follows :—

“20. As from the appointed day the following provisions shall apply to boards of guardians :—

* * * * *

“(2.) A person shall not be qualified to be elected or to be a guardian for a poor law union unless he is a parochial elector of some parish within the union, or has during the whole of the twelve months preceding the election resided in the union, or in the case of a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, is qualified to be elected a councillor for that borough, and no person shall be disqualified by sex or marriage for being elected or being a guardian. So much of any enactment, whether in a public general or local and personal Act, as relates to the qualification of a guardian shall be repealed :

“(3.) The parochial electors of a parish shall be the electors of the guardians for the parish, and, if the parish is divided into wards for the election of guardians, the electors of the guardians for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :

“(4.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :

“(5.) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board.”

And whereas by Section 30 of the said Act, which is included in Part II. thereof, it is enacted as follows :—

“30. The provisions of this Part of this Act respecting guardians shall apply to * * * every county borough.”

And whereas by Section 48 of the said Act it is, amongst other things, enacted as follows :—

“48.—(2.) Rules framed under this Act by the Local Government Board in relation to elections shall, notwithstanding anything in any other Act, have effect as if enacted in this Act, and shall provide, amongst other things,—

“(i.) for every candidate being nominated in writing by two parochial electors as proposer and seconder and no more ;

“(ii.) for preventing an elector at an election for a union or for a district not a borough from subscribing a nomination paper or voting in more than one parish or other area in the union or district.

* * * * *

“(iv.) for fixing or enabling the county council to fix the day of the poll and the hours during which the poll is to be kept open, so, however, that the poll shall always be open between the hours of six and eight in the evening ;

“(v.) for the polls at elections held at the same date and in the same area being taken together, except where this is impracticable ;

“(vi.) for the appointment of returning officers for the elections.”

“(3.) At every election regulated by rules framed under this Act, the poll shall be taken by ballot, and the Ballot Act, 1872, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and sections seventy-four and seventy-five and Part IV. of the Municipal Corporations Act, 1882, as amended by the last-mentioned Act (including the penal provisions of those Acts) shall, subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election. Provided that—

“(a) section six of the Ballot Act, 1872, shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes ; and

“(b) section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall apply as if the election were an election mentioned in the First Schedule to that Act.

“(4.) The provisions of the Municipal Corporations Act, 1882, and the enactments amending the same, with respect to the expenses of elections of councillors of a borough, and to the acceptance of office, * * * re-eligibility of holders of office, and the filling of casual vacancies, and section fifty-six of that Act shall, subject to the adaptations, alterations, and exceptions made by the said rules, apply in the case of guardians. * * *

“Provided that—

* * * * *

“(b) nothing in the enactments applied by this section shall authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election ; and

“(c) the rules may provide for the incidence of the charge for the expenses of the elections of guardians being the same as heretofore.”

And whereas by sub-section (1) of Section 79 of the said Act it is enacted that—

“79.—(1.) The existing boards of guardians and urban and rural sanitary authorities shall take the necessary measures for the conduct of the first elections of guardians and district councillors respectively under this Act, including any appointment of returning officers required by rules under this Act.”

And whereas by sub-sections (1), (2), and (4) of Section 84 of the said Act it is enacted that—

“84.—(1.) The first elections under this Act shall be held on the eighth

day of November next after the passing of this Act, or such later date or dates in the year one thousand eight hundred and ninety-four as the Local Government board may fix.

“(2.) The persons elected shall come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of the rules made under this Act in relation to their election.”

“(4.) Subject as in this Act mentioned, the ‘appointed day’ shall,

“(a) for the purpose of elections * * * be the day or respective days fixed for the first elections under this Act, or such prior day as may be necessary for the purpose of giving notices or doing other acts preliminary to such elections; and

“(b) for the purpose of the powers, duties, and liabilities of councils or other bodies elected under this Act, or other matters not specifically mentioned, be the day on which the members of such councils or other bodies first elected under this Act come into office.”

NOW THEREFORE, We, the Local Government Board in pursuance of the powers given to Us in that behalf, do, by this Our Order, Direct that the Election of Guardians in the present year in each Urban Parish in England and Wales shall, subject to any directions which may be given by Us, be conducted according to the following Rules, and such Rules shall be observed :—

Returning Officer.

1.—(1.) The Returning Officer shall be the Clerk to the Guardians of the Poor Law Union in which the Parish is situate or with which it is co-extensive.

(2.) If the Clerk is unwilling to act as Returning Officer, or if the office of Clerk is vacant at the time when any duty relative to the election has to be performed by the Returning Officer, or if the Clerk from illness or other sufficient cause is unable to perform such duty, the Guardians shall appoint some other person to act as Returning Officer or to perform such of the duties of the Returning Officer as then remain to be performed, as the case may be.

(3.) The Returning Officer shall appoint an Office for the purposes of the election.

(4.) Subject to the provisions of Rule 13, the Returning Officer may, in writing, appoint one or more fit persons to be his deputy or deputies for all or any of the purposes relating to the election of Guardians, and shall appoint such a deputy in the case and for the purposes mentioned in Rule 21 (1) of this Order. A Deputy Returning Officer, whether appointed under this Rule or by Rule 13, shall have all the powers, duties, and liabilities of the Returning Officer in relation to the matters in respect of which he is deputy.

Day of Election.

2.—(1.) The day of the election of Guardians in the year One thousand eight hundred and ninety-four shall be Monday, the Seventeenth day of December, or such other day, not being earlier than Saturday, the Fifteenth day of that month, or later than Wednesday, the Nineteenth day of that month, as may, for special reasons, be fixed by the County Council.

(2.) Provided that, in any urban district other than a Borough, the day of the election of Guardians and of Urban District Councillors shall be the same.

Notice of Election.

3. Not later than Saturday, the First day of December, One thousand eight hundred and ninety-four, the Returning Officer shall prepare and sign a notice of the election of Guardians in the Urban Parishes in the Poor Law Union, and shall cause public notice to be given of the same in each

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Parish. The notice shall be in the Form No. 1 in the First Schedule to this Order, or in a form to the like effect.

Nomination of Candidates.

4.—(1.) Each candidate for election as a Guardian shall be nominated in writing.

(2.) The nomination paper shall state the name of the Parish or other area for which the candidate is nominated, the surname and other name or names in full of the candidate, and his place of abode and description, and whether he is qualified as a parochial elector of some Parish within the Poor Law Union, or by having during the whole of the twelve months preceding the election resided in the Union, or, in the case of a Parish or United Parishes wholly or partly situate within the area of a Borough, by being qualified to be elected a Councillor for that Borough. It shall be signed by two parochial electors of the Parish or other area, as proposer and seconder, and no more, and shall state their respective places of abode. It shall be in the Form set out in the notice in the Form No. 1 in the First Schedule to this Order, or in a form to the like effect.

(3.) The name of more than one candidate shall not be inserted in any one nomination paper.

(4.) A parochial elector shall not sign more nomination papers than there are Guardians to be elected for the Parish or other area in the Poor Law Union for which the election is to be held. He shall not sign a nomination paper for any Parish or other area unless he is registered as a parochial elector in respect of a qualification therein. Neither shall he sign nomination papers for more than one Parish or other area in the Union.

(5.) If any parochial elector shall sign nomination papers for more than one Parish or other area in the Union, or shall sign a larger number of nomination papers than the number of Guardians to be elected for the Parish or other area, such of the nomination papers signed by him as relate to the first Parish or other area for which a nomination paper signed by him is received by the Returning Officer shall alone be valid, and of the nomination papers signed by him which relate to that Parish or other area such as are first received by the Returning Officer up to the number of Guardians to be so elected shall alone be valid. Provided that, for the purposes of this paragraph, nomination papers not properly filled up and signed shall be excluded.

Nomination Papers to be provided.

5. The Returning Officer shall provide nomination papers, and shall furnish the Overseers of the Parish with a supply thereof. Any parochial elector may obtain nomination papers from either the Returning Officer or the Overseers free of charge.

Time for sending in Nomination Papers.

6. Every nomination paper shall be sent to the Returning Officer so that it shall be received at his Office not later than two o'clock in the afternoon of Wednesday, the Fifth day of December, One thousand eight hundred and ninety-four. A nomination paper received after that time shall not be valid. The Returning Officer shall note on each nomination paper whether it was received before or after that time.

Dealing with Nominations by Returning Officer.

7.—(1.) The Returning Officer shall number the nomination papers in the order in which they are received by him; and the first valid nomination

paper received for a candidate shall be deemed to be the nomination of that candidate.

(2.) The Returning Officer shall, as soon as practicable after the receipt of any nomination paper, examine the same, and decide whether it has or has not been properly filled up and signed by two parochial electors of the Parish or other area, and whether it is or is not invalid under Rule 4 (5) or Rule 6. His decision that a nomination paper has been so filled up and signed and is not invalid as aforesaid shall be final, and shall not be questioned in any proceeding whatever.

(3.) If the Returning Officer shall decide that a nomination paper is invalid, he shall put a note on it to this effect, stating the grounds of his decision, and he shall sign such note.

(4.) After deciding that the nomination of any candidate is valid, or (except where a nomination of any candidate has been decided to be valid) that a nomination paper for the candidate is invalid, the Returning Officer shall, as soon as practicable, send, by post or otherwise, notice of his decision to the candidate.

Statement as to Persons nominated.

8. Not later than Friday, the Seventh day of December, One thousand eight hundred and ninety-four, the Returning Officer shall make out a Statement in the Form No. 2 in the First Schedule to this Order, or in a form to the like effect, containing the names, places of abode, and descriptions of the persons nominated as Guardians for the several Urban Parishes in the Poor Law Union, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not. He shall forthwith cause a copy thereof to be suspended in the Board Room of the Guardians, and another to be affixed on the principal external gate or door of every Workhouse of the Union, and, if the Board Room of the Guardians is not situate at any such Workhouse, on the external gate or door of the building in which the Board Room of the Guardians is comprised.

Withdrawal of Candidate.

9. Any candidate may withdraw his candidature by delivering or causing to be delivered at the Office of the Returning Officer before four o'clock on the afternoon of Friday, the Seventh day of December, a notice in writing of such withdrawal, signed by him.

Relation of Nomination to Election.

10. Section 56 of the Municipal Corporations Act, 1882, shall be altered and adapted in its application to the election of Guardians in the Parish so as to provide as follows, and not otherwise:—

(1.) If the number of valid nominations exceeds that of the persons to be elected as Guardians, the Guardians shall be elected from amongst the persons nominated.

(2.) If the number of valid nominations does not exceed the number of Guardians to be elected, or if by the withdrawal of any candidates as provided by Rule 9, the number of candidates for the Parish is reduced to a number not exceeding the number of persons to be elected, or if the number of candidates is otherwise so reduced, the Returning Officer shall, as early as practicable, give public notice in the Parish to this effect, stating that no poll will be taken, and that the candidates, or the remaining candidates, as the case may be, will be declared to be elected.

(3.) He shall forthwith send, by post or otherwise, a copy of such notice to each of such candidates.

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(4.) The notice shall be in the Form No. 3 in the First Schedule to this Order, or in a form to the like effect.

Day and Hours of Poll.

11.—(1.) The poll, if any, shall be held on the day of election as fixed by or under Rule 2 of this Order, and the hours during which the poll shall be open shall be such as shall be fixed by the County Council by any general or special order, so, however, that the poll shall always be open between the hours of six and eight in the evening.

(2.) Provided that in any Urban District other than a Borough the hours during which any poll shall be open for the election of Guardians and Urban District Councillors shall be the same.

When Polls to be taken together.

12.—(1.) If any Parish is co-extensive with an Urban District other than a Borough, or with any Ward or Wards of any such Urban District, or is wholly comprised in any such District which is not divided into Wards or in any one Ward of such a District which is divided into Wards, the poll for the election of Guardians for the Parish and any poll for the election of Urban District Councillors shall be taken together.

(2.) If the County Council shall be of opinion in any other case that the polls for the election of Guardians and for the election of Urban District Councillors can conveniently be taken together, they may give directions accordingly to the Returning Officers for the two elections, and the polls for such elections shall thereupon be taken together.

When Returning Officer for Urban District Councillors is to be Deputy Returning Officer for Guardians.

13.—(1.) If, as provided by paragraph (1) of Rule 12 of this Order, or as directed by the County Council under paragraph (2) of that Rule, the poll for the election of Guardians for the Parish and any poll for the election of Urban District Councillors are to be taken together, the Returning Officer at the election of Urban District Councillors for the Urban District shall be the Deputy Returning Officer for the purposes herein-after mentioned in relation to the poll for the election of Guardians for the Parish. Such Deputy Returning Officer shall be substituted for the Returning Officer in Rules 1 (4), 14, 15, 16, 17, 18, and 19 of this Order, and shall act as Deputy Returning Officer for the purposes therein mentioned.

(2.) Immediately after four o'clock on Friday, the Seventh day of December, the Returning Officer shall send to each Returning Officer for the election of Urban District Councillors who is Deputy Returning Officer as aforesaid, a Statement of the persons validly nominated as Guardians for the Parish who have not withdrawn their candidatures, giving the surname and other name or names in full of each such candidate, and his place of abode and description, and the names of his proposer and seconder, and their respective places of abode.

Polling Districts.

14.—(1.) (a.) If the Parish is divided into Wards for the election of Urban District Councillors, including the Councillors of a Borough, the whole of each such Ward being comprised in the Parish, and the lists of parochial electors are made out in separate parts for such Wards, each Ward shall be a Polling District for the election of Guardians.

(b.) If the Parish is not so divided, but is divided into Polling Districts

for the election of County Councillors, or if it is not divided into such Polling Districts, but is divided into Polling Districts for the election of the councillors of a Borough, the whole of each such District being comprised in the Parish, and the lists of parochial electors are made out in separate parts for such districts, each district shall be a Polling District for the election of Guardians.

(c.) If neither paragraph (a.) nor paragraph (b.) of this Rule applies to the Parish, the Returning Officer may, if he thinks fit, divide the Parish into Polling Districts for the election of Guardians, but each district shall consist of an area for which separate lists of parochial electors will be available.

(d.) The Polling Districts for the election of Guardians and of any Urban District Councillors, when the polls for the two elections are taken together, shall be the same.

(2.) If the Parish is divided into Polling Districts, each parochial elector shall give his vote in the Polling District in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one Polling District, he may vote in any one (but in one only) of the Polling Districts in which it is situate.

Polling Places and Stations.

15.—(1.) The Returning Officer shall determine the number and situation of the polling places.

Provided as follows:—

- (a.) That no premises licensed for the sale of intoxicating liquor shall be used for a polling place ;
- (b.) That the polling stations for the election of Guardians and of any Urban District Councillors, when the polls for the two elections are taken together, shall be the same ;
- (c.) That, unless the County Council otherwise direct, where the number of parochial electors in the Parish, or (if the Parish is divided into Polling Districts) in any Polling District is not more than five hundred only one Polling Station shall be provided for the Parish or Polling District ; and so on for each additional five hundred parochial electors, or for any less number of parochial electors over and above the last five hundred.

Notice of the Poll.

16.—(1.) If a poll has to be taken, the Returning Officer shall, five clear days at least before the day fixed for the same, give public notice thereof. The notice shall specify—

- (a.) the day and hours fixed for the poll ;
- (b.) the number of Guardians to be elected for the Parish ;
- (c.) the names, place of abode, and description of each candidate for the Parish whom he has decided to be nominated by a valid nomination paper, and who has not withdrawn his candidature ;
- (d.) the names of the proposer and seconder who signed the nomination paper of each candidate ;
- (e.) a description of the polling districts, if any ; and
- (f.) the situation and allotment of the polling places and the description of the persons entitled to vote thereat, and at the several Polling Stations.

(2.) The notice shall be in the Form No. 4 in the First Schedule to this Order, or in a form to the like effect.

(3.) If polls are to be taken together in the Parish as to the election of both Guardians and Urban District Councillors, the Returning Officer may, if he thinks fit, give one notice only for both polls, and such notice shall be in the Form No. 5 in the First Schedule to this Order, or in a form to the like effect.

Presiding Officers.

17. The returning officer, or some person appointed by him for the purpose, shall preside at each Polling Station. The person presiding at any Polling Station shall be called the Presiding Officer. Provided that at any Polling Station the same person shall act as Presiding Officer for the elections of Guardians and Urban District Councillors, the polls for which are to be taken together.

Compartments of Polling Stations.—Ballot Papers.

18. The Returning Officer shall furnish every Polling Station with such number of compartments in which the voters can mark their votes screened from observation, and shall furnish each Presiding Officer with such number of ballot papers as may be necessary for effectually taking the poll at the election.

Polling Agents.

19. If there are only two candidates, each of them may, in writing, appoint a polling agent for each Polling Station, who may be paid or unpaid. If there are more than two candidates, any number of them, being not less than one-third of the whole number of candidates, may, in writing, appoint one polling agent for each Polling Station, who may be paid or unpaid. Any such appointment shall be delivered at the Office of the Returning Officer not less than two clear days before the day of the poll. Except as aforesaid, no polling agent, whether paid or unpaid, shall be appointed for the purposes of the election.

Questions to Elector.

20.—(1.) The Presiding Officer may, and if required by any parochial elector of the Parish or any polling agent appointed under Rule 19 shall, put to any elector at the time of his applying for a ballot paper, but not afterwards, the following questions, or one of them, and no other :—

- (a.) Are you the person entered in the parochial register for this Parish [or Ward] as follows [read the whole entry from the register]?
- (b.) Have you already voted at the present election of Guardians in this or any other Parish or Ward in the Union?

(2.) A person required to answer either of these questions shall not receive a ballot paper or be permitted to vote until he has answered it.

Counting the Votes.

21.—(1.) If the poll for the election of Guardians for the Parish and any poll for the election of Urban District Councillors are not to be taken together, the Returning Officer, if he does not himself count the votes, shall appoint some person to act as Deputy Returning Officer for the Parish as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate, and of the election of the candidate or candidates to whom the largest number of votes has been given. The person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the Returning Officer in relation to the matters aforesaid, and to the decision of any question as to any ballot paper and otherwise as to the ballot papers. The Returning Officer shall not himself count the votes in more than one Urban Parish in the Union.

(2.) Where the Returning Officer for the election of Urban District Councillors is the Deputy Returning Officer for the election of Guardians as provided in paragraph (1) of Rule 13 of this Order, he shall also be

Deputy Returning Officer for the purposes referred to in paragraph (1) of this Rule.

(3.) The votes for each Parish shall be counted as soon as practicable after the close of the poll.

Equality of Votes.

22. If an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the Returning Officer or Deputy Returning Officer who counts the votes may, if a parochial elector of the Parish, give such additional vote in writing, but shall not otherwise be entitled to vote at the election.

Declaration of Result of Poll.

23.—(1.) The declaration of the result of the poll shall be in the Form No. 6 in the First Schedule to this Order, or in a form to the like effect.

(2.) The Returning Officer or Deputy Returning Officer, as the case may be, making the declaration shall forthwith cause a copy of it to be affixed on the front of the building in which the votes have been counted. If the declaration is made by a deputy Returning Officer, he shall forthwith send it to the Returning Officer.

Publication of Result of Elections.

24.—(1.) The Returning Officer shall prepare and sign a Statement of the result of the elections in all the Urban Parishes in the Poor Law Union, and shall by such notice declare to be elected the persons who, under Rule 10, are to be declared to be elected without a poll being taken. Such persons shall be deemed to have been elected on the day of election fixed by or under Rule 2 of this Order. The notice shall be in the Form No. 7 in the First Schedule to this Order, or in a form to the like effect.

(2.) The Returning Officer shall cause a copy of the Statement to be suspended in the Board Room of the Guardians. He shall also send a sufficient number of copies of the Statement to the Overseers of each Urban Parish in the Union, and the Overseers shall cause public notice to be given of such statement in accordance with Rule 33 of this Order.

Application and Adaptation of Ballot Act, 1872.

25. The provisions of the Ballot Act, 1872, which, with adaptations and alterations are set out in the Second Schedule to this Order, and only such provisions of that Act, shall, subject to such adaptations and alterations, apply to the election of Guardians in like manner as in the case of a municipal election.

Provided as follows :—

(1.) Such application shall be subject to the provisions of this Order.

(2.) If polls are taken together in the Parish as to an election of Guardians and Urban District Councillors, separate Ballot Boxes shall be used for the two elections respectively, but no vote for any Guardian shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for Urban District Councillors.

(3.) The ballot papers used at the election of Guardians shall be of a different colour from that of any ballot papers used in the election of any Urban District Councillors in the Parish when the polls for the two elections are taken together.

Adaptation of Municipal Corporations Act, 1882.

26.—(1.) The provisions of Sections 74 and 75 of the Municipal Corpora-

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tions Act, 1882, which with adaptations and alterations are set out in the Third Schedule to this Order, and such of the provisions of that Act, and the enactments amending the same, as relate to the acceptance of office, re-eligibility of holders of office, and filling of casual vacancies, and are, with adaptations and alterations, set out in the Fourth Schedule to this Order, shall, subject to such adaptations and alterations, apply to the election of Guardians and to the persons elected thereat.

(2.) In the application of Part IV. of the Municipal Corporations Act, 1882 (relating to Corrupt Practices and Election Petitions), as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect:—

- (a.) Such application shall be subject to the provisions of this Order.
- (b.) References to the election of Guardians shall be deemed to be substituted for references to a municipal election or to an election to a corporate office. “Parish or United Parishes” and in Section 93 (2) “Poor Law Union” shall be deemed to be substituted for “Borough,” “Poor Rate of the Parish or Poor Rates of the United Parishes” shall be substituted for “Borough Fund or Borough Rate,” “Returning Officer” shall be substituted for “Town Clerk,” and “voter” shall mean “a parochial elector or a person who votes or claims to vote at an election of Guardians.

Adaptation of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

27. In the application of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect:—

- (1.) Such application shall be subject to the provisions of this Order.
- (2.) The expressions “Parish or United Parishes,” “Returning Officer at election of Guardians,” and “Poor Rate of the Parish or Poor Rates of the United Parishes” shall be deemed to be substituted in the Act for “Borough,” “Town Clerk,” and “Borough Fund or Rate,” respectively.
- (3.) The expression “corporate office” in the Act shall mean “the office of guardian,” and a “municipal election” shall mean “an election of one or more guardians;” and the expressions “municipal election court,” “municipal election list,” and “municipal election petition” shall be construed accordingly.
- (4.) So much of Section 13 of the Act as permits one polling agent to be employed in each Polling Station shall not apply, except so far as the employment of polling agents is permitted by Rule 19 of this Order.
- (5.) An election petition complaining of the election on the ground of an illegal practice may be presented at any time within six weeks after the day of election.
- (6.) A petition relating to the election of a Guardian for a Parish may be tried at any place within the Poor Law Union in which the Parish is situate.
- (7.) In Section 34 “Burgess Roll” shall mean “Register of Parochial Electors.”
- (8.) Section 37 of the Act shall be read as if a reference to an election of Guardians was substituted for a reference to any of the elections mentioned in the First Schedule to the Act.

When Guardians come into Office.

28. The Guardians elected shall come into office on Friday, the Twenty-eighth day of December, One thousand eight hundred and ninety-four.

Expenses.

29.—(1.) Any sum which may be payable to the Returning Officer in respect of his services in taking a poll in the Parish, or in respect of expenses incurred in relation to such poll, shall be defrayed by the Guardians of the Poor Law Union, and shall be charged to the Parish in their accounts.

(2.) Any other sum which may be payable to the Returning Officer in respect of his services in the conduct of the election, or in respect of expenses incurred in relation to the election, shall be defrayed by the Guardians, and shall, in the case of a Union, be charged to the Common Fund.

(3.) If polls for the election of Guardians and Urban District Councillors are taken together, one half of any expenses which may be payable in respect of the two polls jointly, including the remuneration of any officers employed in the conduct thereof, shall be deemed to have been incurred in relation to the poll for the election of Guardians, and shall be defrayed accordingly.

Parish in more than one County.

30. If the Parish is situate in more than one County it shall for the purposes of this Order be deemed to be wholly situate in the County which, according to the Census of One thousand eight hundred and ninety-one, contains the larger part of its population.

Wards.

31.—(1.) If the Parish is divided into Wards for the election of Guardians, the foregoing Rules shall apply to each of such Wards as if it were a Parish.

(2.) Provided that if a Parish is so divided, an elector shall not be permitted to vote in more than one Ward.

(3.) Provided also, that any sum which, in pursuance of this Rule and of Rule 29, would be charged to any Ward shall be charged to the Parish in which the Ward is situate.

United Parishes.

32.—(1.) If the Parish is united with any other Parish for the election of Guardians the foregoing Rules shall, subject as hereinafter mentioned, apply to such Parishes as if such Parishes formed the Parish.

(2.) In the case of any such United Parishes the questions which under Rule 20 the Presiding Officer may, and if required by any parochial elector or by any Polling Agent appointed under Rule 19 shall, put to any elector shall be as follows:—

(a.) Are you the person entered in the parochial register for one of the United Parishes, viz., the Parish of _____, as follows
[read the whole entry from the register]?

(b.) Have you already voted at the present election of Guardians in either of the United Parishes of _____ and _____, or in any other Parish or Ward in the _____ Union?

(3.) Any sum which, in pursuance of this Rule and of Rule 29 (1), would be charged to the United Parishes shall be divided between them in proportion to the number of parochial electors registered in such Parishes respectively.

Publication of Notices.

33. Any public notice required by this Order shall be given by posting the same on or near the principal door of each Church and Chapel in the Parish, and in some conspicuous place or places within the Parish.

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Mark instead of Signature.

34. In place of any signature required by this Order, it shall be sufficient for the signatory to affix his mark, if the same is witnessed by two parochial electors.

Misnomer.—Inaccurate descriptions.

35. No misnomer or inaccurate description of any person or place named in any notice or nomination paper under this Order shall hinder the full operation of such notice or paper with respect to that person or place, provided the description of that person or place is such as to be commonly understood.

Definition of Urban Parish.

36. In this Order an Urban Parish means a Parish which will be situate in one or more Urban Districts on the "appointed day" on which the Urban District Councillors first elected under the Local Government Act, 1894, come into office.

Title of Order.

37. This Order may be cited as the "Guardians (Outside London) Election Order, 1894."

FIRST SCHEDULE.

FORM NO. 1.

Notice of Election.

[This Form is set out, *ante*, p. 97.]

FORM NO. 2.

Statement as to Persons nominated.

[This Form is set out, *ante*, p. 123.]

FORM NO. 3.

Notice that no Poll will be taken.

[This Form is set out, *ante*, p. 127.]

FORM NO. 4.

Notice of Poll.

[This Form is set out, *ante*, p. 186.]

FORM NO. 5.

Notice of Poll.

[This Form is set out, *ante*, p. 187.]

FORM NO. 6.

Declaration of Result of Poll.

[This Form is set out, *ante*, p. 309.]

FORM NO. 7.

APPENDIX.

Notice of Result of Elections.

[This Form is set out, *ante*, p. 127.]

SECOND SCHEDULE.

PROVISIONS OF THE BALLOT ACT, 1872, AS ADAPTED AND ALTERED
IN THEIR APPLICATION TO THE ELECTION OF GUARDIANS.

PROCEDURE AT ELECTIONS OF GUARDIANS.

Poll at Elections.

2. The ballot of each voter shall consist of a paper (in this Act called a ballot paper) showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting, the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called "the presiding officer") after having shown to him the official mark at the back.

If in the register of parochial electors for a parish the same number is placed opposite to the name of more than one parochial elector, the returning officer shall put a distinguishing mark on each part of the register which contains numbers used in other parts of the register, and when the number of any voter on any part of the register is entered on the counterfoil of a ballot paper, the mark on that part shall also be entered thereon.

Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything, except the said number on the back, is written or marked by which the voter can be identified, shall be void and not counted.

After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority of votes have been given. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

OFFENCES.

Offences in respect of Ballot Papers and Ballot Boxes.

3. Every person who—

- (1.) Forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper; or

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- (2.) Without due authority supplies any ballot paper to any person ; or
- (3.) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in ; or
- (4.) Fraudulently takes out of the polling station any ballot paper ; or
- (5.) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election ;

shall be guilty of a misdemeanor, and be liable, if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

In any indictment or other prosecution for an offence in relation to the ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

Infringement of Secrecy.

4. Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the register of parochial electors of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk, or agent, and no person whosever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to display his ballot paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

USE OF SCHOOL AND PUBLIC ROOM FOR POLL.

6. The returning officer at an election of guardians may use, free of charge, for the purpose of taking the poll or for counting the votes at such election, any room in a school receiving a grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any local rate, but he shall make good any damage done to such room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the same on account of its being used for the purpose of taking the poll or for counting the votes as aforesaid.

The use of any room in an unoccupied house for taking the poll shall not render any person liable to be rated or to pay any rate for such house.

DUTIES OF RETURNING AND ELECTION OFFICERS.

APPENDIX.

General Powers and Duties of Returning Officer.

8. Subject to the provisions of this Act, every returning officer shall provide such nomination papers, polling stations, ballot boxes, ballot papers, stamping instruments, copies of register of parochial electors, and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting the election.

Every deputy returning officer shall, in so far as he acts as returning officer, be deemed to be included in the term returning officer.*

Keeping of Order in Station.

9. If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorised in writing by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace.

Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

Powers of Presiding Officer and Administration of Oaths, &c.

10. For the purpose of the adjournment of the poll, a presiding officer shall have the power by law belonging to a deputy returning officer in a parliamentary election; and any presiding officer and any clerk appointed by the returning officer to attend at a polling station shall have the power of asking the questions and administering the oath authorised by law to be asked of and administered to voters, and any justice of the peace and any returning officer may take and receive any declaration authorised by this Act to be taken before him.

Liability of Officers for Misconduct.

11. Every returning officer, presiding officer, and clerk who is guilty of any wilful misfeasance or any wilful act of omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission, a penal sum not exceeding one hundred pounds.

No returning officer or officer appointed by him in connection with the election of guardians for any parish, nor any partner or clerk of any such officer, shall act as agent for any candidate in the management or conduct of his election as a guardian. If any returning officer or officer appointed by him, or the partner or clerk of any such officer, shall so act, he shall be guilty of a misdemeanor.

MISCELLANEOUS.

Prohibition of Disclosure of Vote.

12. No person who has voted at an election shall, in any legal proceeding

* This paragraph appears also in the Urban District Councillors' Election Order, 1894, but not in the Rural District Councillors' Election Order, 1894.

to question the election or return, be required to state for whom he has voted.

Non-compliance with Rules.

13. No election shall be declared invalid by reason of a defect in the title or appointment of the returning officer or deputy returning officer, or of a non-compliance with the rules contained in the First Schedule to this Act or in the Guardians (Outside London) Election Order, 1894, or any mistake in the use of the forms in the Second Schedule to this Act or in the said Order, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of this Act and of the Local Government Act, 1894, and that such non-compliance or mistake did not affect the result of the election.

PERSONATION.

Definition and Punishment of Personation.

24. The following enactments shall be made with respect to personation at an election of guardians :

It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the court in the same manner in which courts are empowered to allow the same in cases of felony.

Sections 86 to 89, both inclusive, of the Parliamentary Voters' Registration Act, 1843, shall apply to personation at an election of guardians in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Act, but with the substitution of the words " any parochial elector or any agent appointed under the Guardians (Outside London) Election Order, 1894," for " any such agent so appointed as aforesaid " or for any reference to any such agent, and of " the presiding officer " for " the returning officer or his respective deputy."

EFFECT OF SCHEDULES.

28. The schedules to this Act, and the notes thereto, and directions therein shall be construed and have effect as part of this Act.

SCHEDULES TO ACT.

FIRST SCHEDULE TO ACT.

RULES FOR ELECTIONS OF GUARDIANS.

The Poll.

15. At every polling place the returning officer shall, subject to the provisions of the Guardians (Outside London) Election Order, 1894, provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling place, and shall distribute the polling stations amongst these electors in such manner as he thinks most convenient.

17. A separate room or separate booth may contain a separate polling

station, or several polling stations may be constructed in the same room or booth.

18. No person shall be admitted to vote at any polling station except the one allotted to him.

20. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at such station. He shall keep the official mark secret.

21. The presiding officer appointed to preside at each station shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty.

22. Every ballot paper shall contain a list of the candidates described as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names: it shall be in the form set forth in the Second Schedule to this Act or as near thereto as circumstances admit, and shall be capable of being folded up.

23. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

24. Immediately before a ballot paper is delivered to an elector, it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector, together with the distinguishing mark, if any, of the part of the register in which the number occurs shall, as required by Section 2 of this Act as adapted, be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

25. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

26. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Act, or (if the poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by this Act, or of any voter who makes such a declaration as herein-after mentioned that he is unable to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list, in this Act called "the list of votes marked by the presiding officer."

The said declaration, in this Act referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the form herein-after mentioned,

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and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

27. If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions permitted by the Guardians (Outside London) Election Order, 1894, to be asked of voters at the time of polling, and upon taking an oath in the form herein-after set out, which the presiding officer shall administer, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Act called a tendered ballot paper) shall be of a colour differing from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter and his number on the register shall be entered on a list, in this Act called "the tendered votes list."

The oath shall be administered in the following form :—

"You do swear that you are the same person whose name appears as *A.B.* on the Register of Parochial Electors for the Parish of [or Ward of the Parish of], and that you have not already voted at the present election of Guardians in this or any other Parish or Ward in the Union.

"SO HELP YOU GOD."

Provided that any person entitled to affirm in lieu of taking an oath may affirm in the following form :—

"I, *A.B.*, do solemnly, sincerely, and truly declare and affirm that I am the same person whose name appears as *A.B.* on the Register of Parochial Electors for the Parish of [or Ward of the Parish of], and that I have not already voted at the present election of Guardians in this or any other Parish or Ward in the Union."

28. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

29. The presiding officer of each station, as soon as practicable after the close of the poll, shall make up into separate packets sealed with his seal,—

- (1.) Each ballot box in use at his station, unopened but with the key attached ; and
- (2.) The unused and spoilt ballot papers, placed together ; and
- (3.) The tendered ballot papers ; and
- (4.) The marked copies of the register of parochial electors, and the counterfoils of the ballot papers ; and
- (5.) The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read ;

and shall deliver such packets to the returning officer, or deputy returning officer by whom the votes are to be counted, unless he is himself such officer.

30. The packets shall be accompanied by a statement made by such presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is in this Act referred to as the ballot paper account.

Counting Votes.

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31. Each candidate may appoint an agent to attend the counting of the votes.

32. The returning officer shall make arrangements for counting the votes in the presence of the agents of the candidates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed to attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.

33. The returning officer, his assistants and clerks, the agents of the candidates, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes.

34. If a poll has been taken as to the election of guardians only, before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open each ballot box, and taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes. If polls have been taken at the same date for the election both of guardians and of urban district councillors before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open one of the ballot boxes and taking out the papers therein shall separate those relating to the election of guardians from any relating to the election of urban district councillors, and shall count and record the number of ballot papers relating to each election. He shall then secure the ballot papers relating to each election by placing them in separate packets under his own seal, and the seals of such of the agents of the candidates as desire to affix their seals, and shall proceed in like manner with any other ballot boxes and the papers therein. When all the ballot boxes and the papers therein have been so dealt with, he shall open all the packets of ballot papers relating to one election, and shall mix all such papers together, and shall proceed to count the votes, keeping the papers relating to any other election sealed up until he has completed such counting. He shall afterwards deal in manner aforesaid with the packets and papers relating to the other election or elections.

The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.

35. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding, in and so far as he thinks it necessary, the hours between the close of the poll and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

36. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the endorsement "rejection objected to," if an objection be in fact made by any agent to his decision. The returning officer shall draw up a statement showing the number of ballot papers rejected and not counted by him under the several heads of—

1. Want of official mark ;
2. Voting for more candidates than entitled to ;
3. Writing or mark by which voter could be identified ;
4. Unmarked or void for uncertainty ;

and shall on request allow any agents of the candidates to copy such statement. If the votes are counted by a deputy returning officer, he shall, with the declaration of the result of the poll, report to the returning

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officer the number of ballot papers rejected and not counted by him, under the above heads, and no such statement as aforesaid shall be drawn up by the returning officer. The deputy returning officer shall, on request, allow any agents of the candidates, before such report is sent in, to copy it.

37. Upon the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of voters and counterfoils, but shall proceed, in the presence of the agents of the candidates, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination. The returning officer shall draw up a statement as to the result of such verification, and shall, on request, allow any agents of the candidates to copy it.

If the votes are counted by a deputy returning officer, he shall report to the returning officer the result of the verification, and no such statement as aforesaid shall be drawn up by the returning officer. The deputy returning officer shall, on request, allow any agents of the candidates, before such report is sent in, to copy it. He shall with his report send to the returning officer the sealed packets of counted and rejected ballot papers, and the unopened sealed packets which he has received from any presiding officer.

38. Lastly, the returning officer shall carefully preserve for the period herein-after mentioned all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the parish for which such election was held.

39. The returning officer shall retain for six months all documents relating to an election of guardians, and then, unless otherwise directed by an order of the county court having jurisdiction in the parish or in any part thereof, or of any tribunal in which the election is questioned, shall cause them to be destroyed.

40. No person shall be allowed to inspect any rejected ballot papers in the custody of the returning officer, except under the order of the county court or tribunal aforesaid, to be granted by such court or tribunal on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the court or tribunal making the same may think expedient, and shall be obeyed by the returning officer.

41. No person shall, except by order of the county court having jurisdiction in the parish or any part thereof, or of any tribunal having cognizance of any question relating to the election, open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the custody of the returning officer. Such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the court or tribunal making the order may think expedient: Provided that on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent court to be invalid.

42. All documents in the custody of a returning officer, in pursuance of

this Act, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may be prescribed by the council of the county or county borough in which the parish is situate, and the returning officer shall supply copies of or extracts from the said documents to any person demanding the same, on payment of such fees and subject to such regulations as may be made by the council.

43. Where an order is made for the production by the returning officer of any document in his possession relating to any specified elections of guardians the production by such officer or his agent of the document ordered, in such manner as may be directed by such order, or by an order of the court having power to make such first-mentioned order, shall be conclusive evidence that such document relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by such returning officer or his agent shall be evidence of such papers being what they are stated to be by the endorsement. The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *prima facie* evidence that the person who voted by such ballot paper was the person who at the time of such election had affixed to his name in the register of voters at such election the same number as the number written on such counterfoil.

43. (a.) There shall be an appeal from any order of the county court under these rules in like manner as in other cases in such court.

General Provisions.

47. If the returning officer presides at any polling station, the provisions of this Act relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer.

48. The returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes.

49. No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election.

50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorised to do by this Act at a polling station except ordering the arrest, exclusion, or ejection from the polling station of any person.

51. A candidate may himself undertake the duties which any agent of his, if appointed under Rule 31 of this Schedule, might have undertaken, and may, if he does not appoint such an agent, be present at the counting of the votes, or may himself take the place of such agent.

52. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll; and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address.

53. If any person appointed an agent for the purposes of attending a polling station or at the counting of the votes dies, or becomes incapable of acting during the time of the election, another agent may be appointed in his place, and notice shall forthwith be given to the returning officer in writing of the name and address of any agent so appointed.

54. Every returning officer, and every officer, clerk, or agent authorised to attend at a polling station, and also every officer, clerk, or agent authorised to attend at the counting of the votes, shall, before the opening

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of the poll, make a statutory declaration of secrecy, in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer or an agent, of a justice of the peace or of the returning officer; but no such returning officer, officer, clerk, or agent as aforesaid shall, save as aforesaid, be required, as such, to make any declaration or take any oath on the occasion of any election.

55. Where in this Act any expressions are used requiring or authorising or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorised to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.

SECOND SCHEDULE TO ACT.

Note.—The forms contained in this schedule, or forms as nearly resembling the same as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law.

Form of Ballot Paper.

Form of Front of Ballot Paper.

ELECTION OF GUARDIANS.

Counterfoil
No. .

NOTE :—

The counter-foil is to have a number to correspond with that on the back of the Ballot Paper.

1	BROWN (John Brown, of Water Lane, Agricultural Labourer).
2	GREEN (Robert Green, of Mudford, Shoemaker).
3	JONES (William David Jones, of Claygate Farm, Farmer).
4	MERTON (Hon. George Travis, commonly called Viscount Merton, of Swanworth, Wilts, Gentleman).
5	ROBINSON (Henry Robinson, of High Street, Grocer).
6	SMITH (Mary Elizabeth Smith, of Lavender Cottage, Married Woman).

Form of Back of Ballot Paper.

No.

Election of Guardians for
Ward of Parish].

Parish [*or* United Parishes *or*

1894.

Note.—The number on the ballot paper is to correspond with that on the counterfoil.

Directions as to printing Ballot Paper.

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Nothing is to be printed on the ballot paper except in accordance with this schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters, as shown in the form, and the names, places of abode, and descriptions, and the number on the back of the paper, shall be printed in small characters.

Form of Direction for the Guidance of the Voter in voting, which shall be printed in conspicuous Characters, and placarded outside every Polling Station and in every Compartment of every Polling Station.

The voter may vote for _____ candidates as guardians.

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus X.

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer and then, in the presence of the presiding officer, put the paper into the ballot box and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

If the voter votes for more than _____ candidates, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanour, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

Note.—These directions shall be illustrated by examples of the ballot paper.

Form of Statutory Declaration of Secrecy.

I solemnly promise and declare, That I will not at this election of Guardians for the Parish of _____ [or United Parishes of _____ or _____ Ward of the Parish of _____], do anything forbidden by section four of The Ballot Act, 1872, which has been read to me.

Note.—The section must be read to the declarant by the person taking the declaration. One declaration may be made by the Returning Officer in respect of all the Parishes for which he is Returning Officer.

Form of Declaration of inability to read.

I, A.B., of _____, being numbered _____ on the Register of Parochial Electors for the Parish of _____, do hereby declare that I am unable to read.

A.B., _____ his mark

day of December, 1894.

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—

I, the undersigned, being the Presiding Officer for the polling station for the Parish of [or United Parishes of or Ward of the Parish of], do hereby certify that the above declaration, having been first read to the above-named *A.B.*, was signed by him in my presence with his mark
Signed, *C.D.*,
Presiding Officer for polling station
for the Parish of [or United Parishes of or Ward of the Parish of]
day of December 1894.

THIRD SCHEDULE.
—

SECTIONS 74 AND 75 OF THE MUNICIPAL CORPORATIONS ACT, 1882, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF GUARDIANS.

Offences in relation to Nomination Papers.

74.—(1.) If any person forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any forged nomination paper, knowing it to be forged, he shall be guilty of a misdemeanor, and shall be liable to imprisonment for any term not exceeding six months, with or without hard labour.

(2.) An attempt to commit any such offence shall be punishable as the offence is punishable.

Neglect of Duty by Returning Officer or Deputy Returning Officer.

75.—(1.) If a person who has undertaken to act as returning officer, or deputy returning officer, at an election of guardians, neglects or refuses to conduct or declare the election in manner provided by the Local Government Act, 1894, and the Guardians (Outside London) Election Order, 1894, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action.

(2.) An action under this section shall not lie after three months from the neglect or refusal.

FOURTH SCHEDULE.
—

PROVISIONS OF THE MUNICIPAL CORPORATIONS ACT, 1882, AND THE ENACTMENTS AMENDING THE SAME, WITH RESPECT TO THE ACCEPTANCE OF OFFICE, RE-ELIGIBILITY OF HOLDERS OF OFFICE, AND FILLING OF CASUAL VACANCIES, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF GUARDIANS.

Obligation to accept Office or pay Fine.

34.—(1.) Every qualified person elected to the office of guardian, unless exempt under this section or otherwise by law, either shall accept the office by making and subscribing the declaration required by this Act within one month after notice of election, or shall, in lieu thereof, be liable to pay to the board of guardians a fine of such amount, not exceeding fifty pounds, as the guardians by regulation determine.

(2.) If there are no regulations determining fines, the fine shall be twenty pounds.

(3.) The persons exempt under this section are—

Any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body.

(4.) A fine payable under this section shall be recoverable summarily.

(5.) If a person is elected guardian in more than one parish or other area in the poor law union for which the election is held, he shall not accept office in respect of more than one of such areas, and if he accepts or pays the fine for non-acceptance of office in respect of one of such areas he shall not be liable to a fine for non-acceptance of office in respect of any other of such areas.

(6.) Any person who has been elected without his consent to his nomination being previously obtained, shall not be liable to a fine under this section.

Declaration on Acceptance of Office.

35. A person elected to the office of guardian shall not, until he has made and subscribed before two guardians of the poor law union, or the clerk to the guardians of the union, a declaration in the following form or in a form to the like effect, act in the office except in administering that declaration :—

FORM OF DECLARATION ON ACCEPTANCE OF OFFICE.

I, *A.B.*, having been elected guardian for the Poor Law Union of
in respect of the Parish of _____ [or of the United Parishes
of _____ and _____, or of the Ward
of the Parish of _____], hereby declare that I take the said
office upon myself, and will duly and faithfully fulfil the duties thereof
according to the best of my judgment and ability.

Dated this _____ day of _____, 189 .

This declaration was made and subscribed before us *

Guardians of the above-named { _____
Union. { _____

Power to receive Declaration.

239.—(1.) Members of the board of guardians or the clerk shall have authority to receive the declaration required to be made by a guardian without any commission or authority other than this Act.

Penalty on acting in office without making Declaration.

41.—(1.) If any person acts in the office of guardian without having made the declaration by this Act required, he shall for each offence be liable to a fine not exceeding twenty pounds, recoverable by action.

Re-eligibility of Office-Holders.

37. A person ceasing to hold the office of guardian shall, unless disqualified to hold the office, be re-eligible.

Filling of Casual Vacancies.

40.—(1.) On a casual vacancy in the office of guardian, an election shall

* If the declaration is made and subscribed before the Clerk, adapt form accordingly.

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—

be held in accordance with rules framed under the Local Government Act, 1894; and the person elected shall hold the office until the time when the person in whose place he is elected would regularly have gone out of office, and he shall then go out of office.

(2.) In case of more than one casual vacancy in the office of guardian being filled at the same election, the guardian elected by the smallest number of votes shall be deemed to be elected in the place of him who would regularly have first gone out of office, and the guardian elected by the next smallest number of votes shall be deemed to be elected in the place of him who would regularly have next gone out of office, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of rotation shall be determined by the board of guardians.

(3.) Non-acceptance of office by a person elected creates a casual vacancy.

Time for filling Casual Vacancies.

66.—(1.) On a casual vacancy in the office of guardian, the election shall be held within one month after notice in writing of the vacancy has been given to the chairman of the board of guardians or to the clerk by two guardians.

(3.) The day of election shall be fixed by the clerk to the guardians.

(4.) Nothing in this Act shall authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election.

Given under the Seal of Office of the Local Government Board, this Twenty-ninth day of September, in the year One thousand eight hundred and ninety-four.



L. S.

G. SHAW LEFEVRE.

President.

WALTER FOSTER.

HUGH OWEN.

Secretaries.

RULES AS TO NOMINATION AND ELECTION OF URBAN DISTRICT COUNCILLORS, 1894.

General Order, 29th September, 1894.

To the COUNTY COUNCIL of every ADMINISTRATIVE COUNTY in ENGLAND and WALES, except the Administrative County of London;—

To the Urban Sanitary Authority of every Urban Sanitary District in England and Wales, which is not a Borough;—

To the Clerk to every such Urban Sanitary Authority;—

And to all others whom it may concern.

WHEREAS by Section 21 of the Local Government Act, 1894, it is, amongst other things, enacted as follows:—

“21. As from the appointed day:—

“(1.) Urban Sanitary Authorities shall be called urban district councils, and their districts shall be called urban districts; but nothing in this

section shall alter the style or title of the corporation or council of a Borough ;—

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“(3.) In this and every other Act of Parliament, unless the context otherwise requires, the expression ‘district council’ shall include the council of every urban district whether a borough or not, * * * and the expression ‘county district’ shall include every urban * * * district, whether a borough or not.”

And whereas by Section 23 of the said Act, it is, amongst other things, enacted as follows :—

“23. As from the appointed day, where an urban district is not a borough—

“(2.) A person shall not be qualified to be elected or to be a councillor unless he is a parochial elector of some parish within the district, or has during the whole of the twelve months preceding the election resided in the district, and no person shall be disqualified by sex or marriage for being elected or being a councillor. So much of any enactment, whether in a public general or local and personal Act, as relates to the qualification of a member of an urban sanitary authority shall be repealed :

“(3.) The parochial electors of the parishes in the district shall be the electors of the councillors of the district, and, if the district is divided into wards, the electors of the councillors for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :

“(4.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :

“(5.) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board.”

[The Order then recites L.G.A. s. 48, s. 79, and s. 84, as in the Order relating to the nomination and election of guardians outside London, see *ante*, p. 422. It then proceeds :—

NOW THEREFORE, We, the Local Government Board, in pursuance of the powers given to Us in that behalf, do, by this Our Order, Direct that the Election of Urban District Councillors in the present year in each District in England and Wales which on the “appointed day” on which the Urban District Councillors first elected under the Local Government Act, 1894, come into office, will be an Urban District other than a Borough herein-after referred to as the Urban District, shall, subject to any directions which may be given by Us, be conducted according to the following Rules, and such Rules shall be observed :—

Returning Officer.

1.—(1.) The Returning Officer shall be the Clerk to the Urban Sanitary Authority.

(2.) If the Clerk is unwilling to act as Returning Officer, or if the office of Clerk is vacant at the time when any duty relative to the election has to be performed by the Returning Officer, or if the Clerk from illness or other sufficient cause is unable to perform such duty, the Urban Sanitary Authority shall appoint some other person to act as Returning Officer or to perform such of the duties of the Returning Officer as then remain to be performed, as the case may be.

(3.) If the Urban District is formed by an Order of the County Council which, for that purpose, comes into operation after the date of this Order, the Returning Officer shall be a person appointed by the County Council.

(4.) The Returning Officer shall appoint an Office for the purposes of the election.

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(5.) The Returning Officer may, in writing, appoint a fit person to be his deputy for all or any of the purposes relating to the election of Urban District Councillors. A Deputy Returning Officer shall have all the powers, duties, and liabilities of the Returning Officer in relation to the matters in respect of which he is appointed as deputy.

Day of Election.

2.—(1.) The day of the election of Urban District Councillors in the year One thousand eight hundred and ninety-four shall be Monday, the Seventeenth day of December in that year, or such other day, not being earlier than Saturday, the Fifteenth day of that month, or later than Wednesday, the Nineteenth day of that month, as may, for special reasons, be fixed by the County Council.

(2.) Provided that, in any Urban District the day of the election of Urban District Councillors and Guardians shall be the same.

Notice of Election.

3. Not later than Saturday, the First day of December, One thousand eight hundred and ninety-four, the Returning Officer shall prepare and sign a notice of the election, and shall cause public notice to be given of the same in the District. The notice shall be in the Form No. 1 in the First Schedule to this Order, or in a form to the like effect.

Nomination of Candidates.

4.—(1.) Each candidate for election as an Urban District Councillor shall be nominated in writing.

(2.) The nomination paper shall state the name of the District or Ward for which the candidate is nominated, the surname and other name or names in full of the candidate, and his place of abode and description, and whether he is qualified as a parochial elector of some Parish within the District, or by having during the whole of the twelve months preceding the election resided in the District. It shall be signed by two parochial electors of the District, or, if the District is divided into Wards, of the Ward, as proposer and seconder, and no more, and shall state their respective places of abode. It shall be in the Form set out in the Notice in the Form No. 1 in the First Schedule to this Order, or in a form to the like effect.

(3.) The name of more than one candidate shall not be inserted in any one nomination paper.

(4.) A parochial elector shall not sign more nomination papers than there are Urban District Councillors to be elected for the District or Ward for which the election is to be held. He shall not sign a nomination paper for the District, or for any Ward thereof, unless he is registered as a parochial elector in respect of a qualification therein. Neither shall he sign nomination papers for more than one Ward in the Urban District.

(5.) If any parochial elector shall sign nomination papers for more than one Ward in the Urban District, or shall sign a larger number of nomination papers than the number of Urban District Councillors to be elected for the District or Ward, such of the nomination papers signed by him as relate to the first Ward for which a nomination paper signed by him is received by the Returning Officer shall alone be valid, and of the nomination papers signed by him which relate to the District or to such Ward, such as are first received by the Returning Officer up to the number of Urban District Councillors to be so elected shall alone be valid. Provided that, for the purposes of this paragraph, nomination papers not properly filled up and signed shall be excluded.

Nomination Papers to be Provided.

5. The Returning Officer shall provide nomination papers. Any parochial elector may obtain nomination papers from him free of charge.

Time for sending in Nomination Papers.

6. Every nomination paper shall be sent to the Returning Officer so that it shall be received at his office not later than two o'clock in the afternoon of Wednesday, the fifth day of December, One thousand eight hundred and ninety-four. A nomination paper received after that time shall not be valid. The Returning Officer shall note on each nomination paper whether it was received before or after that time.

Dealing with Nominations by Returning Officer.

7.—(1.) The Returning Officer shall number the nomination papers in the order in which they are received by him; and the first valid nomination paper received for a candidate shall be deemed to be the nomination of that candidate.

(2.) The Returning Officer shall, as soon as practicable after the receipt of any nomination paper, examine the same and decide whether it has or has not been properly filled up and signed by two parochial electors of the District or Ward, and whether it is or is not invalid under Rule 4 (5) or Rule 6. His decision that a nomination paper has been so filled up and signed, and is not invalid as aforesaid, shall be final, and shall not be questioned in any proceeding whatever.

(3.) If the Returning Officer shall decide that a nomination paper is invalid, he shall put a note on it to this effect, stating the grounds of his decision, and he shall sign such note.

(4.) After deciding that the nomination of any candidate is valid, or (except where a nomination of any candidate has been decided to be valid) that a nomination paper for the candidate is invalid, the Returning Officer shall, as soon as practicable, send, by post or otherwise, notice of his decision to the candidate.

Statement as to Persons Nominated.

8. Not later than Friday, the seventh day of December, One thousand eight hundred and ninety-four, the Returning Officer shall make out a Statement in the Form No. 2 in the First Schedule to this Order, or in a form to the like effect, containing the names, places of abode, and descriptions of the persons nominated as Urban District Councillors for the District or for the several Wards thereof, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not. He shall forthwith cause a copy thereof to be suspended in the Board Room, if any, of the Urban Sanitary Authority, and another to be affixed on the principal external gate or door of the Offices of the Sanitary Authority. If there are no such Offices he shall cause such notice to be posted in some conspicuous place or places within the District.

Withdrawal of Candidate.

9. Any candidate may withdraw his candidature by delivering or causing to be delivered at the Office of the Returning Officer, not later than four o'clock in the afternoon of Friday, the seventh day of December, a notice in writing of such withdrawal, signed by him.

Relation of Nomination to Election.

10. Section 56 of the Municipal Corporations Act, 1882, shall be adapted and altered on its application to the election of Urban District Councillors in the District, so as to provide as follows, and not otherwise :—

- (1.) If the number of valid nominations exceeds that of the persons to be elected as Urban District Councillors, the Councillors shall be elected from amongst the persons nominated.
- (2.) If the number of valid nominations does not exceed the number of Urban District Councillors to be elected, or if, by the withdrawal of any candidates as provided by Rule 9, the number of candidates for the District is reduced to a number not exceeding the number to be elected, or if the number of candidates is otherwise so reduced, the Returning Officer shall, as early as practicable, give public notice in the District to this effect, stating that no poll will be taken, and that the candidates or the remaining candidates, as the case may be, will be declared to be elected.
- (3.) He shall forthwith send, by post or otherwise, a copy of such notice to each of such candidates.
- (4.) The notice shall be in the Form No. 3 in the First Schedule to this Order, or in a form to the like effect.

Day and hours of Poll.

11.—(1.) The poll, if any, shall be held on the day of election as fixed by or under Rule 2 of this Order, and the hours during which the poll shall be open shall be such as shall be fixed by the County Council by any general or special order, so, however, that the poll shall always be open between the hours of six and eight in the evening.

(2.) Provided that in any Urban District the hours during which any poll shall be open for the election of Urban District Councillors and Guardians shall be the same.

When Polls to be taken together.

12.—(1.) If the Urban District or any Ward or Wards of the District is or are co-extensive with a Parish or United Parishes or with any Ward or Wards of a Parish for the election of Guardians, or if the District is not divided into Wards such District, or if it is divided into Wards any one Ward of the District, includes the whole of such Parish, United Parish, or Ward of a Parish, the poll for the election of Urban District Councillors for the District, and any poll for the election of Guardians for the Parish, United Parishes, or Ward shall be taken together.

(2.) If the County Council shall be of opinion, in any other case, that the polls for the election of Urban District Councillors and for the election of Guardians can conveniently be taken together, they may give directions accordingly to the Returning Officers for the two elections, and the polls for such elections shall thereupon be taken together.

(3.) The Returning Officer for the election of Urban District Councillors shall act as the Deputy Returning Officer at any poll for the election of Guardians, if the polls for the two elections will be taken together.

Polling Districts.

13.—(1.) (a.) Any Parish, or, where a Parish is united with another Parish for the election of Guardians, the United Parishes, shall, if wholly comprised in the Urban District, be a Polling District, or be subdivided into Polling Districts for the election of Urban District Councillors, if a Poll for the said elections and a Poll for the election of Guardians will be taken together.

(b.) If any Parish is divided into Wards for the election of Guardians, paragraph (a.) of this Rule shall apply with the substitution of "Ward" for "Parish."

(c.) Provided that if any Parish, United Parishes, or Ward of a Parish for the election of Guardians is or are divided into Polling Districts for the election of County Councillors, the whole of each Polling District being comprised in the Parish, United Parishes, or Ward, and the lists of parochial electors are made out in separate parts for such Polling Districts, each district shall, if a Poll for the election of Urban District Councillors and a Poll for the election of Guardians will be taken together, be a Polling District for the election of Urban District Councillors.

(d.) Subject as aforesaid, the Returning Officer may, if he thinks fit, divide the District into Polling Districts for the election of Urban District Councillors, but each District shall consist of an area for which separate lists of parochial electors will be available.

(e.) The Polling Districts for the election of Urban District Councillors and of any Guardians when the polls for the two elections are taken together shall be the same.

(2.) If the District is divided into Polling Districts, each parochial elector shall give his vote in the Polling District in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one Polling District, he may vote in any one (but in one only) of the Polling Districts in which it is situate.

Polling Places and Stations.

14. The Returning Officer shall determine the number and situation of the polling places.

Provided as follows :—

- (a.) That no premises licensed for the sale of intoxicating liquor shall be used for a polling place ;
- (b.) That the polling stations for the election of Urban District Councillors and of any Guardians, when the polls for the two elections are taken together, shall be the same ;
- (c.) That, unless the County Council otherwise direct, where the number of parochial electors in the Urban District, or (if the District is divided into Polling Districts) in any Polling District is not more than five hundred, only one polling station shall be provided for the Urban District or Polling District ; and so on for each additional five hundred parochial electors, or for any less number of parochial electors over and above the last five hundred.

Notice of the Poll.

15.—(1.) If a poll has to be taken, the Returning Officer shall, five clear days at least before the day fixed for the same, give public notice thereof. The notice shall specify—

- (a.) the day and hours fixed for the poll ;
- (b.) the number of Urban District Councillors to be elected for the District ;
- (c.) the names, place of abode, and description of each candidate for the District whom he has decided to have been nominated by a valid nomination paper, and who has not withdrawn his candidature ;
- (d.) the names of the proposer and seconder who signed the nomination paper of each candidate ;
- (e.) a description of the polling districts, if any ; and
- (f.) the situation and allotment of the polling places, and the description of the persons entitled to vote thereat and at the several Polling Stations.

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(2.) The notice shall be in the Form No. 4 in the First Schedule to this Order, or in a form to the like effect.

(3.) If polls are to be taken together in the District as to the election of both Urban District Councillors and Guardians, the Returning Officer may, if he thinks fit, give one notice only for both polls, and such notice shall be in the Form No. 5 in the First Schedule to this Order, or in a form to the like effect.

Presiding Officers.

16. The Returning Officer, or some person appointed by him for the purpose, shall preside at each Polling Station. The person presiding at any Polling Station shall be called the Presiding Officer. Provided that at any Polling Station the same person shall act as Presiding Officer for the elections of Urban District Councillors and Guardians, the polls for which are to be taken together.

Compartments of Polling Stations—Ballot Papers.

17. The Returning Officer shall furnish every Polling Station with such number of compartments in which the voters can mark their votes screened from observation, and shall furnish each Presiding Officer with such number of ballot papers as may be necessary for effectually taking the poll at the election.

Polling Agents.

18. If there are only two candidates, each of them may, in writing, appoint a polling agent for each Polling Station, who may be paid or unpaid. If there are more than two candidates, any number of them, being not less than one-third of the whole number of candidates, may, in writing, appoint one polling agent for each Polling Station, who may be paid or unpaid. Any such appointment shall be delivered at the Office of the Returning Officer not less than two clear days before the day of the poll. Except as aforesaid, no polling agent, whether paid or unpaid, shall be appointed for the purposes of the election.

Questions to Elector.

19.—(1.) The Presiding Officer may, and if required by any parochial elector of the District, or any polling agent appointed under Rule 18 shall, put to any elector at the time of his applying for a ballot paper, but not afterwards, the following questions, or one of them, and no other :—

- (a.) Are you the person entered in the parochial register for the Parish of [or for the Ward] as follows [read the whole entry from the register]?
- (b.) Have you already voted at the present election of Urban District Councillors for the Urban District of [in this or any other Ward]?

(2.) A person required to answer either of these questions shall not receive a ballot paper or be permitted to vote until he has answered it.

Counting the Votes.

20.—(1.) If the Returning Officer appoints a person to act as Deputy Returning Officer for the District as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate, and of the election of the candidate or candidates to whom the largest number of votes has been given, the person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the Returning Officer in relation

to the matters aforesaid, and to the decision of any question as to any ballot paper and otherwise as to the ballot papers.

(2.) If polls for the election both of Urban District Councillors and Guardians are taken together, the same person shall discharge the duties referred to in paragraph (1) of this Rule in relation to both elections.

(3.) The votes shall be counted in the District or in some place near thereto as soon as practicable after the close of the poll.

Equality of Votes.

21. If an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the Returning Officer or Deputy Returning Officer who counts the votes may, if a parochial elector of the District, give such additional vote in writing, but shall not otherwise be entitled to vote at the election.

Declaration of Result of Poll.

22.—(1.) The declaration of the result of the poll shall be in the Form No. 6 in the First Schedule to this Order, or in a form to the like effect.

(2.) The Returning Officer, or Deputy Returning Officer, as the case may be, making the declaration shall forthwith cause a copy of it to be affixed on the front of the building in which the votes have been counted. If the declaration is made by a Deputy Returning Officer, he shall forthwith send it to the Returning Officer.

Publication of Result of Election.

23.—(1.) The Returning Officer shall prepare and sign a Statement of the result of the election in the District, or in all the Wards of the District, as the case may be, and shall by such notice declare to be elected the persons who, under Rule 10, are to be declared to be elected without a poll being taken. Such persons shall be deemed to have been elected on the day of election fixed by or under Rule 2 of this Order. The notice shall be in the Form No. 7 in the First Schedule to this Order, or in a form to the like effect.

(2.) The Returning Officer shall cause a copy of the Statement to be suspended in the Board Room, if any, of the Urban Sanitary Authority, and he shall also cause public notice thereof to be given.

Application and Adaptation of Ballot Act, 1872.

24. The provisions of the Ballot Act, 1872, which, with adaptations and alterations, are set out in the Second Schedule to this Order, and only such provisions of that Act, shall, subject to such adaptations and alterations, apply to the election of Urban District Councillors in like manner as in the case of a municipal election.

Provided as follows :—

(1.) Such application shall be subject to the provisions of this Order.

(2.) If polls are taken together for the election of Urban District Councillors and Guardians separate ballot boxes shall be used for the two elections respectively, but no vote for any Urban District Councillor shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for Guardians.

(3.) The ballot papers used at the election of Urban District Councillors shall be of a different colour from that of any ballot papers used in the election of any Guardians in the District when the polls for both elections are taken together.

Application of Municipal Corporations Act, 1882.

25.—(1.) The provisions of Sections 74 and 75 of the Municipal Corporations Act, 1882, which, with adaptations and alterations, are set out in the Third Schedule to this Order, and such of the provisions of that Act, and the enactments amending the same, as relate to the acceptance of office, resignation, re-eligibility of holders of office, and filling of casual vacancies, and are, with adaptations and alterations, set out in the Fourth Schedule to this Order, shall, subject to such adaptations and alterations, apply to the election of Urban District Councillors and to the persons elected thereat.

(2.) In the application of Part IV. of the Municipal Corporations Act, 1882 (relating to Corrupt Practices and Election Petitions), as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect:—

- (a.) Such application shall be subject to the provisions of this Order.
- (b.) References to the election of Urban District Councillors shall be deemed to be substituted for references to a municipal election or to an election to a corporate office. "Urban District" shall be substituted for "Borough," "Rate applicable to the general expenses of the Urban District Council" shall be substituted for "Borough Fund or Borough Rate," "Returning Officer" shall be substituted for "Town Clerk," and "voter" shall mean "a parochial elector or a person who votes or claims to vote at an election of Urban District Councillors."

Adaptation of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

26. In the application of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect:—

- (1.) Such application shall be subject to the provisions of this Order.
- (2.) The expressions "Urban District or Ward of an Urban District," "Returning Officer of Urban District Councillors," and "Rate applicable to the general expenses of the Urban District Council" shall be deemed to be substituted in the Act for "Borough or Ward," "Town Clerk," and "Borough Fund or Rate," respectively.
- (3.) The expression "corporate office" in the Act shall mean "the office of Urban District Councillor," and "a municipal election" shall mean "an election of one or more Urban District Councillors;" and the expressions "municipal election court," "municipal election list," and "municipal election petition" shall be construed accordingly.
- (4.) So much of Section 13 of the Act as permits one polling agent to be employed in each polling station shall not apply, except so far as the employment of polling agents is permitted by Rule 18 of this Order.
- (5.) An election petition complaining of the election on the ground of an illegal practice may be presented at any time within six weeks after the day of election.
- (6.) In Section 34 of the Act "Burgess Roll" shall mean "Register of Parochial Electors."
- (7.) Section 37 of the Act shall be read as if a reference to an election of Urban District Councillors was substituted for a reference to any of the elections mentioned in the First Schedule to the Act.

When Urban District Councillors come into office.

27. The Urban District Councillors elected shall come into office on Monday, the Thirty-first day of December, One thousand eight hundred and ninety-four.

Expenses.

28.—(1.) Any sum which may be payable to the Returning Officer in respect of his services in the conduct of the election of Urban District Councillors, or in respect of expenses incurred in relation to the election, shall be defrayed by the Urban District Council out of the fund or rate applicable to their general expenses under the Public Health Act, 1875.

(2.) If polls for the election of Urban District Councillors and Guardians are taken together, one half of any expenses which may be payable in respect of the two polls jointly, including the remuneration of any officers employed in the conduct thereof, shall be deemed to have been incurred in relation to the poll for the election of Urban District Councillors, and shall be defrayed accordingly.

Wards.

29.—(1.) If the District is divided into Wards for the election of Urban District Councillors, the foregoing Rules shall apply to each of such Wards as if it were the District.

(2.) Provided that if the District is so divided, an elector shall not be permitted to vote in more than one Ward.

(3.) Provided also that any sum which in pursuance of this Rule and of Rule 28 would be charged to any Ward shall be charged to the District.

Publication of Notices.

30. Any public notice required by this Order shall be given by posting the same on or near the principal door of each church and chapel in the District, and in some conspicuous place or places within the District.

Mark instead of Signature.

31. In place of any signature required by this Order, it shall be sufficient for the signatory to affix his mark, if the same is witnessed by two parochial electors.

Misnomer.—Inaccurate Description.

32. No misnomer or inaccurate description of any person or place named in any notice or nomination paper under this Order shall hinder the full operation of such notice or paper with respect to that person or place, provided the description of that person or place is such as to be commonly understood.

Title of Order.

33. This Order may be cited as the "Urban District Councillors Election Order, 1894."

FIRST SCHEDULE.

FORM NO. 1.

Notice of Election.

[This Form is set out, *ante*, p. 105.]

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FORM NO. 2.

Statement as to Persons nominated.

[This Form is set out, *ante*, p. 137.]

FORM NO. 3.

Notice that no Poll will be taken.

[This Form is set out, *ante*, p. 138.]

FORM NO. 4.

Notice of Poll.

[This Form is set out, *ante*, p. 189.]

FORM NO. 5.

Notice of Poll.

[This Form is the same as that set out, *ante*, p. 187; see *ante*, p. 190.]

FORM NO. 6.

Declaration of Result of Poll.

[This Form is set out, *ante*, p. 310.]

FORM NO. 7.

Notice of Result of Poll.

[This Form is set out, *ante*, p. 139.]

SECOND SCHEDULE.

PROVISIONS OF THE BALLOT ACT, 1872, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF URBAN DISTRICT COUNCILLORS IN ANY DISTRICT OTHER THAN A BOROUGH.

[With the substitution of "urban district councillors" for "guardians," of "urban district" for "parish," and of "Urban District Councillors Election Order, 1894," for "Guardians (Outside London) Election Order, 1894," these provisions are the same as those in the last-named Order, *ante*, p. 433. The forms of oath and affirmation set out under B.A., s. 27, differ slightly from those in the last-named Order, but these are set out, *ante*, pp. 253, 254. The form of ballot paper set out, *ante*, p. 181, and of the declaration of secrecy, declaration of inability to read, and declaration on acceptance of office, also differ slightly, but are set out, *ante*, pp. 197, 249, 142.]

THIRD SCHEDULE.

SECTIONS 74 AND 75 OF THE MUNICIPAL CORPORATIONS ACT, 1882, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF URBAN DISTRICT COUNCILLORS IN A DISTRICT OTHER THAN A BOROUGH.

[With the substitution of "Urban District Councillors Election Order, 1894," for "Guardians (Outside London) Election Order, 1894," in s. 75, these sections are the same as those in the last-named Order, *ante*, p. 444.]

FOURTH SCHEDULE.

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PROVISIONS OF THE MUNICIPAL CORPORATIONS ACT, 1882, AND THE ENACTMENTS AMENDING THE SAME, WITH RESPECT TO THE ACCEPTANCE OF OFFICE, RESIGNATION, RE-ELIGIBILITY OF HOLDERS OF OFFICE, AND FILLING OF CASUAL VACANCIES, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF URBAN DISTRICT COUNCILLORS IN ANY DISTRICT OTHER THAN A BOROUGH.

[With the substitution of "district council" for "board of guardians" and of "urban district councillor" for "guardian," and with the addition of s. 36 (*infra*), these provisions are the same as those in the Guardians (Outside London) Election Order, 1894, *ante*, p. 444.]

Resignation of Office.

36.—(1.) A person elected as urban district councillor may at any time, by writing signed by him and delivered to the clerk to the urban district council, resign the office, on payment of the fine provided for non-acceptance thereof.

(2.) In any such case the council shall forthwith declare the office to be vacant, and signify the same by notice in writing, signed by three members of the district council, and countersigned by the clerk, and fixed on the principal external gate or door of the offices of the district council, and the office shall thereupon become vacant.

Given under the Seal of Office of the Local Government Board, this
Twenty-ninth day of September, in the year One thousand eight
hundred and ninety-four.



G. SHAW-LEFEVRE,
President.

WALTER FOSTER.
HUGH OWEN.

Secretaries.

RULES AS TO NOMINATION AND ELECTION OF
RURAL DISTRICT COUNCILLORS, 1894.

General Order, 22nd September, 1894.

- To the COUNTY COUNCIL of every ADMINISTRATIVE COUNTY in ENGLAND and WALES except the Administrative County of London ;—
- To the Board of Guardians of every Poor Law Union in England and Wales, which on the "appointed day" will be co-extensive with or will contain a Rural Parish ;—
- To the Overseers of the Poor of every Rural Parish in England and Wales ;—
- To the Clerk to the Guardians of every such Poor Law Union as aforesaid ;—
- And to all others whom it may concern.

WHEREAS by Section 20 of the Local Government Act, 1894, it s,
amongst other things, enacted as follows :—

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“20. As from the appointed day the following provisions shall apply to boards of guardians :—

* * * * *

“(2.) A person shall not be qualified to be elected or to be a guardian for a poor law union unless he is a parochial elector of some parish within the union, or has during the whole of the twelve months preceding the election resided in the union, or in the case of a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, is qualified to be elected a councillor for that borough, and no person shall be disqualified by sex or marriage for being elected or being a guardian. So much of any enactment, whether in a public general or local and personal Act, as relates to the qualification of a guardian shall be repealed :

“(3.) The parochial electors of a parish shall be the electors of the guardians for the parish, and if the parish is divided into wards for the election of guardians, the electors of the guardians for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :

“(4.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :

“(5.) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board.”

And whereas by Section 21 of the said Act it is, amongst other things, enacted as follows :—

“21. As from the appointed day * * *

“(2.) For every rural sanitary district there shall be a rural district council, whose district shall be called a rural district :

“(3.) In this and every other Act of Parliament, unless the context otherwise requires, the expression ‘district council’ shall include the council of every * * * rural district, and the expression ‘county district’ shall include every * * * rural district * * *”

And whereas by Section 24 of the said Act it is, amongst other things, enacted as follows :—

“24.—(1.) The district council of every rural district shall consist of a chairman and councillors, and the councillors shall be elected by the parishes or other areas for the election of guardians in the district.

“(2.) The number of councillors for each parish or other area in a rural district shall be the same as the number of guardians for that parish or area.

“(3.) The district councillors for any parish or other area in a rural district shall be the representatives of that parish or area on the board of guardians, and when acting in that capacity shall be deemed to be guardians of the poor, and guardians as such shall not be elected for that parish or area.

“(4.) The provisions of this Act with respect to the qualification, election, and term of office and retirement of guardians, and to the qualification of the chairman of the board of guardians, shall apply to district councillors and to the chairman of the district council of a rural district, and any person qualified to be a guardian for a union comprising the district shall be qualified to be a district councillor for the district.”

[The Order then recites L.G.A., s. 48, s. 79, and s. 84, as in the Order relating to the nomination and election of Guardians outside London, see *ante*, p. 422. It then proceeds :—]

NOW THEREFORE, We, the Local Government Board, in pursuance of the powers given to Us in that behalf, do, by this Our Order, Direct that the Election of Rural District Councillors in the present year in each Parish in England and Wales which on the “appointed day” will be a Rural Parish shall, subject to any directions which may be given by Us, be conducted according to the following Rules, and such Rules shall be observed :—

Returning Officer.

1.—(1.) The Returning Officer shall be the Clerk to the Guardians of the Poor Law Union in which the Parish is situate or with which it is co-extensive.

(2.) If the Clerk is unwilling to act as Returning Officer, or if the office of Clerk is vacant at the time when any duty relative to the election has to be performed by the Returning Officer, or if the Clerk from illness or other sufficient cause is unable to perform such duty, the Guardians shall appoint some other person to act as Returning Officer or to perform such of the duties of the Returning Officer as then remain to be performed, as the case may be, but the same person shall in all cases be the Returning Officer at the election of the Rural District Councillors and of any Parish Councillors to be elected at the same date in the Parish.

(3.) The Returning Officer shall appoint an Office for the purposes of the election.

(4.) The Returning Officer may, in writing, appoint a fit person to be his deputy for all or any of the purposes relating to the election of Rural District Councillors, and shall appoint such a deputy in the case and for the purposes mentioned in Rule 20 of this Order. A Deputy Returning Officer shall have all the powers, duties, and liabilities of the Returning Officer in relation to the matters in respect of which he is appointed as deputy.

(5.) The same person shall act as Deputy Returning Officer in respect of the election both of Rural District Councillors and of any Parish Councillors to be elected at the same date in the Parish.

Day of Election.

2. (1.) The day of the election of Rural District Councillors in the Parish in the year One thousand eight hundred and ninety-four shall be Monday, the Seventeenth day of December in that year, or such other day, not being earlier than Saturday, the Fifteenth day of December, One thousand eight hundred and ninety-four, or later than Wednesday, the Nineteenth day of that month, as may, for special reasons, be fixed by the County Council.

(2.) Provided that the day of election of Rural District Councillors in the Parish and the day of the poll for the election of any Parish Councillors to be elected at the same date in the Parish shall be the same.

Notice of Election.

3.—(1.) Not later than Saturday the First day of December, One thousand eight hundred and ninety-four, the Returning Officer shall, for each Rural District or part of a Rural District comprised in the Poor Law Union in which the Parish is situate or with which it is co-extensive, prepare and sign a notice of the election of Rural District Councillors in the Parishes in the Rural District or part of a Rural District.

(2.) He shall cause printed copies of the notice to be affixed on or near to the principal door of each church and chapel in each such Parish, and also to be posted in some conspicuous place or places within the Parish.

(3.) The notice shall be in the Form No. 1 in the First Schedule to this Order, or in a form to the like effect.

Nomination of Candidates.

4.—(1.) Each candidate for election as a Rural District Councillor shall be nominated in writing.

(2.) The nomination paper shall state the name of the Parish or other area for which the candidate is nominated, the surname and other name or

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names in full of the candidate, and his place of abode and description, and whether he is qualified as a parochial elector of some Parish within the Poor Law Union in which the Rural District or the part of the Rural District containing the Parish or other area is situate is comprised, or by having during the whole of the twelve months preceding the election resided in the Union, or by being qualified to be a Councillor for a Borough wholly or partly situate within the Union. It shall be signed by two parochial electors of the Parish or other area, as proposer and seconder, and no more, and shall state their respective places of abode. It shall be in the Form set out in the Notice in the Form No. 1 in the First Schedule to this Order, or in a form to the like effect.

(3.) The name of more than one candidate shall not be inserted in any one nomination paper.

(4.) A parochial elector shall not sign more nomination papers than there are Rural District Councillors to be elected for the Parish or other area in the Rural District for which the election is to be held. He shall not sign a nomination paper for any Parish or other area unless he is registered as a parochial elector in respect of a qualification therein. Neither shall he sign nomination papers for more than one Parish or other area in the Rural District.

(5.) If any parochial elector shall sign nomination papers for more than one Parish or other area in the Rural District or shall sign a larger number of nomination papers than the number of Rural District Councillors to be elected for the Parish or other area, such of the nomination papers signed by him as relate to the first Parish or other area for which a nomination paper signed by him is received by the Returning Officer shall alone be valid, and of the nomination papers signed by him which relate to that Parish or other area such as are first received by the Returning Officer up to the number of Rural District Councillors to be so elected shall alone be valid. Provided that for the purposes of this paragraph nomination papers not properly filled up and signed shall be excluded.

Nomination Papers to be provided.

5. The Returning Officer shall provide nomination papers, and shall furnish the Overseers of the Parish with a supply thereof. Any parochial elector may obtain nomination papers from either the Returning Officer or the overseers free of charge.

Time for sending in Nomination Papers.

6. Every nomination paper shall be sent to the Returning Officer so that it shall be received at his Office not later than two o'clock in the afternoon of Wednesday, the Fifth day of December, One thousand eight hundred and ninety-four. A nomination paper received after that time shall not be valid. The Returning Officer shall note on each nomination paper whether it was received before or after that time.

Dealing with Nominations by Returning Officer.

7.—(1.) The Returning Officer shall number the nomination papers in the order in which they are received by him; and the first valid nomination paper received for a candidate shall be deemed to be the nomination of that candidate.

(2.) The Returning Officer shall, as soon as practicable after the receipt of any nomination paper, examine and decide whether it has or has not been properly filled up and signed by two parochial electors of the Parish or other area, and whether it is or is not invalid under Rule 4 (5) or Rule 6. His decision that a nomination paper has been so filled up and signed, and

is not invalid as aforesaid, shall be final, and shall not be questioned in any proceeding whatever.

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(3.) If the Returning Officer shall decide that a nomination paper is invalid, he shall put a note on it to this effect, stating the grounds of his decision, and he shall sign such note.

(4.) After deciding that the nomination of any candidate is valid, or (except where a nomination of any candidate has been decided to be valid) that a nomination paper for the candidate is invalid, the Returning Officer shall, as soon as practicable send, by post or otherwise, notice of his decision to the candidate.

Statement as to Persons nominated.

8. Not later than Friday, the Seventh day of December, One thousand eight hundred and ninety-four, the Returning Officer shall make out a Statement in the Form No. 2 in the First Schedule to this Order, or in a form to the like effect, for each Rural District, or part of a Rural District, comprised in the Poor Law Union, containing the names, places of abode, and descriptions of the persons nominated as Rural District Councillors for the several Parishes in the Rural District or part of a Rural District, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination or not. He shall forthwith cause a copy thereof to be suspended in the Board Room of the Guardians of the Poor Law Union in which these Parishes are situate, and another to be affixed on the principal external gate or door of every Workhouse of the Union, and, if the Board Room of the Guardians is not situate at any such Workhouse, on the external gate or door of the building in which the Board Room is comprised.

Relation of Nomination to Election.

9. Section 56 of the Municipal Corporations Act, 1882, shall be altered and adapted in its application to the election of Rural District Councillors in the Parish so as to provide as follows, and not otherwise :—

- (1.) If the number of valid nominations exceeds that of the persons to be elected as Rural District Councillors, the Councillors shall be elected from amongst the persons nominated.
- (2.) If the number of valid nominations does not exceed the number of Rural District Councillors to be elected, the Returning Officer shall on Friday, the Seventh day of December, One thousand eight hundred and ninety-four, send, by post or otherwise, notice to each candidate who has not withdrawn his candidature under Rule 10, stating that he will be returned as elected. He shall also as early as practicable send, by post or otherwise, notice to the Overseers of the Parish of the names, places of abode, and descriptions of the persons who will be declared to be elected, and the Overseers shall give public notice thereof in the Parish.

Withdrawal of Candidate.

10. Any candidate may withdraw his candidature by delivering or causing to be delivered at the Office of the Returning Officer before four o'clock in the afternoon of Friday the Seventh day of December, a notice in writing of such withdrawal, signed by him.

If Number of Candidates is reduced to Number of Persons to be elected.

11.—(1.) If by the withdrawal of any candidates as provided by Rule 10 the number of candidates for the Parish is reduced to a number not exceeding the number of persons to be elected, or if the number of candidates

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is otherwise so reduced, the Returning Officer shall give public notice in the Parish to this effect, stating that no poll will be taken, and that the remaining candidates will be declared to be elected.

(2.) He shall forthwith send, by post or otherwise, a copy of such notice to each of such last-mentioned candidates.

(3.) The notice shall be in the Form No. 3 in the First Schedule to this Order, or in a form to the like effect.

Day and Hours of Poll.

12.—(1.) The poll, if any, shall be held on the day of election as fixed by or under Rule 2 of this Order, and the hours during which the poll shall be open shall be such as shall be fixed by the County Council by any general or special order, so, however, that the poll shall always be open between the hours of six and eight in the evening.

(2.) Provided that the hours during which any poll shall be open for the election of Rural District Councillors and of any Parish Councillors for the Parish shall be the same.

Polling Districts.

13.—(1.) (a.) If the Parish is divided into Polling Districts for the election of County Councillors or of Parish Councillors, the whole of each such District being comprised in the Parish, and the lists of parochial electors are made out in separate parts for such districts, each district shall be a Polling District for the election of Rural District Councillors.

(b.) If the Parish is not so divided, but is divided into Wards for the election of Parish Councillors, each Ward shall be a Polling District for the election of Rural District Councillors.

(c.) If neither paragraph (a.) nor paragraph (b.) of this Rule applies to the Parish, the Returning Officer may, if he thinks fit, divide the Parish into Polling Districts for the election of Rural District Councillors, but each district shall consist of an area for which separate lists of parochial electors will be available.

(d.) The Polling Districts for the election of Rural District Councillors and of any Parish Councillors elected at the same date in the Parish shall be the same.

(2.) If the Parish is divided into Polling Districts, each parochial elector shall give his vote in the Polling District in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one Polling District, he may vote in any one (but in one only) of the Polling Districts in which it is situate.

Polling Places and Stations.

14.—The Returning Officer shall determine the number and situation of the polling places.

Provided as follows :—

(a.) That no premises licensed for the sale of intoxicating liquor shall be used for a polling place ;

(b.) That the same polling stations shall be used for the election of Rural District Councillors and of any Parish Councillors to be elected at the same date in the Parish ;

(c.) That, unless the County Council otherwise direct, where the number of parochial electors in the Parish, or (if the Parish is divided into Polling Districts) in any Polling District, is not more than five hundred, only one polling station shall be provided for the Parish or Polling District ; and so on for each additional five hundred parochial electors, or for any less number of parochial electors over and above the last five hundred.

Notice of the Poll.

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15.—(1.) If a poll has to be taken, the Returning Officer shall, five clear days at least before the day fixed for the same, give public notice thereof. The notice shall specify—

- (a.) the day and hours fixed for the poll ;
- (b.) the number of Rural District Councillors to be elected for the Parish ;
- (c.) the names, place of abode, and description of each candidate for the Parish whom he has decided to have been nominated by a valid nomination paper, and who has not withdrawn his candidature ;
- (d.) the names of the proposer and seconder who signed the nomination paper of each candidate ;
- (e.) a description of the polling districts, if any ; and
- (f.) the situation and allotment of the polling places, and the description of the persons entitled to vote thereat and at the several polling stations.

(2.) The notice shall be in the Form No. 4 in the First Schedule to this Order, or in a form to the like effect.

(3.) If polls are to be taken in the Parish as to the election of both Rural District Councillors and Parish Councillors, the Returning Officer may, if he thinks fit, give one notice only for both polls, and such notice shall be in the Form No. 5 in the First Schedule to this Order, or in a form to the like effect.

Presiding Officers.

16. The Returning Officer, or some person appointed by him for the purpose, shall preside at each Polling Station. The person presiding at any Polling Station shall be called the Presiding Officer.

Provided as follows :—

- (a.) At any Polling Station the same person shall act as Presiding Officer for the election of Rural District Councillors and of any Parish Councillors to be elected at the same date in the Parish.
- (b.) In making appointments under this Rule the Returning Officer shall, as far as practicable, secure the services of suitable persons resident in the Parish, so as to diminish expense.

Compartments of Polling Stations.—Ballot Papers.

17. The Returning Officer shall furnish every Polling Station with such number of compartments in which the voters can mark their votes screened from observation, and shall furnish each Presiding Officer with such number of ballot papers as may be necessary for effectually taking the poll at the election.

Polling Agents.

18. If there are only two candidates, each of them may, in writing, appoint a polling agent for each polling station, who may be paid or unpaid. If there are more than two candidates, any number of them, being not less than one-third of the whole number of candidates, may, in writing, appoint one polling agent for each polling station, who may be paid or unpaid. Any such appointment shall be delivered at the Office of the Returning Officer not less than two clear days before the day of the poll. Except as aforesaid, no polling agent, whether paid or unpaid, shall be appointed for the purposes of the election.

Questions to Elector.

19.—(1.) The Presiding Officer may, and if required by any parochial

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elector of the Parish, or any polling agent appointed under Rule 18, shall, put to any elector at the time of his applying for a ballot paper, but not afterwards, the following questions, or one of them, and no other :—

- (a.) Are you the person entered in the parochial register for this Parish [or Ward] as follows [*read the whole entry from the register*]?
 - (b.) Have you already voted at the present election of Rural District Councillors in this or any other Parish or Ward in the Rural District of _____?
- (2.) A person required to answer either of these questions shall not receive a ballot paper or be permitted to vote until he has answered it.

Counting the Votes.

20.—(1.) The Returning Officer, when he does not act as a Presiding Officer at any polling station for the Parish, shall appoint the Presiding Officer or some one of the Presiding Officers to act as Deputy Returning Officer for the Parish, as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate and of the election of the candidate or candidates to whom the largest number of votes has been given. The person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the Returning Officer in relation to the decision of any question as to any ballot paper and otherwise as to the ballot papers. Provided that, if the Parish is divided into Wards for the election either of Rural District Councillors or of Parish Councillors, but not for both elections, or, if the Parish is so divided for both elections, and the Wards are not the same for both elections, one Deputy Returning Officer shall act under this Rule for the whole of the Parish.

(2.) The same person shall act as Deputy Returning Officer in respect of the election both of Rural District Councillors and of any Parish Councillors to be elected at the same date for the Parish.

(3.) The votes shall be counted in the Parish or in some place near thereto as soon as practicable after the close of the poll.

Equality of Votes.

21. If an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the Returning Officer or Deputy Returning Officer, as the case may be, may, if a parochial elector of the Parish, give such additional vote in writing, but shall not otherwise be entitled to vote.

Declaration of Result of Poll.

22.—(1.) The declaration of the result of the poll shall be in the Form No. 6 in the First Schedule to this Order, or in a form to the like effect.

(2.) The Returning Officer or Deputy Returning Officer, as the case may be, making the declaration shall forthwith cause a copy of it to be affixed on the front of the building in which the votes have been counted. If the declaration is made by a Deputy Returning Officer, he shall forthwith send it to the Returning Officer.

Publication of Result of Elections.

23.—(1.) The Returning Officer shall, with respect to each Rural District or part of a Rural District comprised in the Poor Law Union, prepare and sign in duplicate a statement of the result of the elections in all the Parishes in the District or part of a District, and shall by such notice declare to be elected the persons who, under Rule 9 or Rule 11, are to be declared to be elected without a poll being taken. Such persons shall be deemed to have been elected on the day of election fixed by or under Rule 2 of this Order.

The notice shall be in the Form No. 7 in the First Schedule to this Order, or in a form to the like effect.

(2.) One of these statements shall be sent by the Returning Officer, as early as practicable, to the Clerk to the Rural District Council, and the other to the Clerk to the Guardians of the Union comprising the Rural District or the part of a Rural District; and copies of the Statement shall be sent by the Returning Officer to the Returning Officer for so much of the Rural District (if any) as is situate in another Poor Law Union and to the elected candidates.

(3.) The Returning Officer shall also send a sufficient number of copies of the Statement to the Overseers of all the parishes comprised in the Rural District, whether in the same Union or not, and the Overseers of every such Parish shall cause public notice to be given of such Statement in accordance with Rule 32 of this Order.

Application and Adaptation of Ballot Act, 1872.

24. The provisions of the Ballot Act, 1872, which, with adaptations and alterations, are set out in the Second Schedule to this Order, and only such provisions of that Act, shall, subject to such adaptations and alterations, apply to the election of Rural District Councillors in like manner as in the case of a municipal election.

Provided as follows:—

- (1.) Such application shall be subject to the provisions of this Order.
- (2.) If an election of Rural District Councillors and of any Parish Councillors is held in the Parish at the same date, one ballot box may, if the Returning Officer thinks fit, be used for the two elections; but, if separate ballot boxes are used for the two elections respectively, no vote for any Rural District Councillor shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for Parish Councillors.
- (3.) The ballot papers used at the election of Rural District Councillors for the Parish shall be of a different colour from that of any ballot papers used in the election of Parish Councillors held in the Parish at the same date.

Adaptation of Municipal Corporations Act, 1882.

25.—(1.) The provisions of Sections 74 and 75 of the Municipal Corporations Act, 1882, which, with adaptations and alterations, are set out in the Third Schedule to this Order, and such of the provisions of that Act and the enactments amending the same as relate to the acceptance of office, re-eligibility of holders of office and filling of casual vacancies, and are, with adaptations and alterations, set out in the Fourth Schedule to this Order, shall, subject to such adaptations and alterations, apply to the election of Rural District Councillors and to the persons elected thereat.

(2.) In the application of Part IV. of the Municipal Corporations Act, 1882 (relating to Corrupt Practices and Election Petitions), as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect:—

- (a.) Such application shall be subject to the provisions of this Order.
- (b.) References to the election of Rural District Councillors shall be deemed to be substituted for references to a municipal election or to an election to a corporate office. "Parish or United Parishes," and in Section 93 (2) "Poor Law Union," shall be deemed to be substituted for "Borough," "Poor Rate of the Parish or Poor Rates of the United Parishes" shall be substituted for "Borough Fund or Borough Rate," the "Returning Officer" shall be substituted for the "Town Clerk," and "voter" shall mean "a parochial elector, or a person who votes or claims to vote at an election of Rural District Councillors."

Adaptation of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

26. In the application of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect :—

- (1.) Such application shall be subject to the provisions of this Order.
- (2.) The expressions “Parish or United Parishes,” “Returning Officer of Rural District Councillors,” and “Poor Rate of the Parish or Poor Rates of the United Parishes” shall be deemed to be substituted in the Act for “Borough,” “Town Clerk,” and “Borough Fund or Rate,” respectively.
- (3.) The expression “corporate office” in the Act shall mean “the office of Rural District Councillor,” and “a municipal election” shall mean “an election of one or more Rural District Councillors”; and the expressions “municipal election court,” “municipal election list,” and “municipal election petition” shall be construed accordingly.
- (4.) So much of Section 13 of the Act as permits one polling agent to be employed in each polling station shall not apply, except so far as the employment of polling agents is permitted by Rule 18 of this Order.
- (5.) An election petition complaining of the election on the ground of an illegal practice, may be presented at any time within six weeks after the day of election.
- (6.) A petition relating to the election of a Rural District Councillor for a Parish may be tried at any place within the Poor Law Union in which the Parish is situate.
- (7.) Nothing in the Act shall render it unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate to the office of Rural District Councillor, on any licensed or other premises not situate in an Urban Sanitary District, or in the Administrative County of London.
- (8.) Section 37 of the Act shall be read as if a reference to an election of Rural District Councillors was substituted for a reference to any of the elections mentioned in the First Schedule to the Act.

When Rural District Councillors come into Office.

27.—(1.) The Rural District Councillors elected shall come into office on Friday, the Twenty-eighth day of December, One thousand eight hundred and ninety-four.

(2.) If the Rural District is situate in more than one Poor Law Union, the Returning Officer for the purpose of convening the first meeting of the Rural District Council shall be the Returning Officer at the election of Rural District Councillors in that part of the District which, according to the Census of One thousand eight hundred and ninety-one, has the larger population.

Expenses.

28.—(1.) Any sum which may be payable to the Returning Officer in respect of his services in taking a poll in the Parish, or in respect of expenses incurred in relation to such poll, shall be defrayed by the Rural District Council of the District, and shall be charged to the Parish in their accounts and shall be raised in like manner as any sums payable by the Parish in respect of the general expenses of the Rural District Council.

(2.) Any other sum which may be payable to the Returning Officer in respect of his services in the conduct of the election, or in respect of expenses incurred in relation to the election, shall be defrayed by the Rural

District Council of the District, and shall be charged in their accounts as general expenses.

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(3.) If a poll for the election of Rural District Councillors and of any Parish Councillors is taken at the same date in the Parish, one half of any expenses which may be payable in respect of the two polls jointly, including the remuneration of any officers employed in the conduct thereof, shall be deemed to have been incurred in relation to the poll for the election of Rural District Councillors, and shall be defrayed accordingly.

If Parish in more than one County.

29. If the Parish is situate in more than one Administrative County, it shall for the purposes of this Order be deemed to be wholly situate in the County which, according to the Census of One thousand eight hundred and ninety-one, contains the larger part of its population.

Wards.

30.—(1.) If the Parish is divided into Wards for the election of Rural District Councillors, the foregoing Rules shall, except as otherwise provided, apply to each of such Wards as if it were a Parish.

(2.) Provided that if the Parish is so divided, an elector shall not be permitted to vote in more than one Ward.

(3.) Provided also that any sum which in pursuance of this Rule and of Rule 28 (1) would be charged to any Ward shall be charged to the Parish in which the Ward is situate and shall be raised accordingly.

United Parishes.

31.—(1.) If the Parish is united with any other Parish for the election of Rural District Councillors the foregoing Rules shall, subject as herein-after mentioned, apply as if such Parishes formed the Parish.

(2.) The questions which under Rule 19 the Presiding Officer may, and if required by any parochial elector, or any polling agent appointed under Rule 18 shall, put to any elector shall be as follows :—

(a.) Are you the person entered in the parochial register for one of the United Parishes, viz., the Parish of _____ as follows [*read the whole entry from the register*]?

(b.) Have you already voted at the present election of Rural District Councillors in either of the United Parishes of _____ and _____, or in any other Parish or Ward in the Rural District of _____?

(3.) Any sum which in pursuance of this Rule and of Rule 28 (1) would be charged to the United Parishes shall be divided between them in proportion to the number of parochial electors registered in such Parishes respectively, and shall be raised accordingly.

Publication of Notices.

32. Any public notice required by this Order shall be given by posting the same on or near the principal door of each church and chapel in the Parish, and in some conspicuous place or places within the Parish.

Mark instead of Signature.

33. In place of any signature required by this Order, it shall be sufficient for the signatory to affix his mark, if the same is witnessed by two parochial electors.

Misnomer.—Inaccurate Descriptions.

34. No misnomer or inaccurate description of any person or place named in any notice or nomination paper under this Order shall hinder the full operation of such notice or paper with respect to that person or place, provided the description of that person or place is such as to be commonly understood.

Title of Order.

35. This Order may be cited as the “Rural District Councillors Election Order, 1894.”

FIRST SCHEDULE.

FORM NO. 1.

Notice of Election.

[This Form is set out, *ante*, p. 101.]

FORM NO. 2.

Statement as to Persons nominated.

[This Form is set out, *ante*, p. 131.]

FORM NO. 3.

Notice that no Poll will be taken.

[This Form is set out, *ante*, p. 134.]

FORM NO. 4.

Notice of Poll.

[This Form is set out, *ante*, p. 190.]

FORM NO. 5.

Notice of Poll.

[This Form is set out, *ante*, p. 191.]

FORM NO. 6.

Declaration of Result of Poll.

[This Form is set out, *ante*, p. 311.]

FORM NO. 7.

Notice of Result of Elections.

[This Form is set out, *ante*, p. 135.]

SECOND SCHEDULE.

PROVISIONS OF THE BALLOT ACT, 1872, AS ADAPTED AND ALTERED
IN THEIR APPLICATION TO THE ELECTION OF RURAL DISTRICT
COUNCILLORS.

[With the omission from this Order of the second paragraph in B.A., s. 6, as to a deputy returning officer, and with the substitution of "rural district councillors" for "guardians," of "rural district" for "parish," of "Rural District Councillors' Election Order, 1894," for "Guardians' (Outside London) Election Order, 1894," and of "district council" for "board of guardians," these provisions, as also those in the Third and Fourth Schedules (*infra*), are the same as those in the last-named Order, *ante*, pp. 433, 444. The forms of oath and affirmation set out under B.A., s. 27, differ slightly from those in the last-named Order only in the substitution of "rural district councillors" for "guardians," and of "rural district" for "union," and are set out, *ante*, p. 179. The form of ballot paper set out, *ante*, p. 179, and of the declaration of secrecy, and declaration on acceptance of office, also differ slightly, but are set out, *ante*, pp. 197, 142.]

THIRD SCHEDULE.

SECTIONS 74 AND 75 OF THE MUNICIPAL CORPORATIONS ACT, 1882,
AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE
ELECTION OF RURAL DISTRICT COUNCILLORS.

[See note, *ante*, p. 468.]

FOURTH SCHEDULE.

PROVISIONS OF THE MUNICIPAL CORPORATIONS ACT, 1882, AND THE
ENACTMENTS AMENDING THE SAME, RELATING TO THE ACCEPT-
ANCE OF OFFICE, RE-ELIGIBILITY OF HOLDERS OF OFFICE, AND
FILLING OF CASUAL VACANCIES, AS ADAPTED AND ALTERED IN
THEIR APPLICATION TO THE ELECTION OF RURAL DISTRICT
COUNCILLORS.

[See note, *ante*, p. 468.]

Given under the Seal of Office of the Local Government Board, this
Twenty-second day of September, in the year One thousand eight
hundred and ninety-four.



G. SHAW-LEFEVRE,
President.

WALTER FOSTER.
HUGH OWEN.
Secretaries.

RULES AS TO NOMINATION AND ELECTION OF PARISH COUNCILLORS.

General Order, 13th September, 1894.

TO THE OVERSEERS OF THE POOR of every RURAL PARISH in ENGLAND and WALES having, according to the Census of One thousand eight hundred and ninety-one, a population of three hundred or upwards ;—

To the County Council of every Administrative County in England and Wales, except the Administrative County of London ;—

To the Clerk to the Guardians of every Poor Law Union in which any such Parish as aforesaid is situate ;—

And to all others whom it may concern.

[After reciting L.G.A., ss. 1, 3, 18, 48, 49, 84 in part, the Order proceeds :—]

NOW THEREFORE, We, the Local Government Board, in pursuance of the powers given to us in that behalf, do, by this our Order, direct that the Election of Parish Councillors in the present year in each Rural Parish which will be entitled to elect a Parish Council on the appointed day for the first election shall, subject to any directions which may be given by us, be conducted according to the following rules, and such rules shall be observed :—

* * * * *

Day and Hours of Poll.

20.—(1.) The poll, if any, shall be held on Monday, the Seventeenth day of December, One thousand eight hundred and ninety-four, or on such other day, not being earlier than Saturday, the Fifteenth day of December, One thousand eight hundred and ninety-four, nor later than Wednesday, the Nineteenth day of that month, as may, for special reasons, be fixed by the County Council.

(2.) The hours during which the poll shall be open shall be such as shall be fixed by the County Council by any general or special order, so, however, that the poll shall always be open between the hours of six and eight in the evening.

(3.) Provided that the day of any poll for the election of Parish Councillors and of any Rural District Councillors to be elected at the same date for the Parish, and the hours during which any poll for such elections shall be open shall be the same.

Polling Districts.

21.—(1.) (a.) If the Parish is divided into Polling Districts for the election of County Councillors or of Rural District Councillors, the whole of each such District being comprised in the Parish, and the lists of parochial electors are made out in separate parts for such districts, each district shall be a Polling District for the election of Parish Councillors.

(b.) If the Parish is not so divided, but is divided into Wards for the election of Rural District Councillors, each of the Wards shall be a Polling District for the election of Parish Councillors.

(c.) If neither paragraph (a.) nor paragraph (b.) of this Rule applies to the Parish, the Returning Officer may, if he thinks fit, divide the Parish into Polling Districts for the election of Parish Councillors, but each of such districts shall consist of an area for which separate lists of parochial electors will be available.

(d.) The Polling Districts for the election of Parish Councillors and of any Rural District Councillors elected at the same date for the Parish shall be the same.

Polling Places and Stations.

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22. The Returning Officer shall determine the number and situation of the polling places.

Provided as follows :—

- (a.) That no premises licensed for the sale of intoxicating liquor shall be used for a polling place ;
- (b.) That the same polling stations shall be used for the election of Parish Councillors and of any Rural District Councillors to be elected at the same date in the Parish ;
- (c.) That, unless the County Council otherwise direct, where the number of parochial electors in the Parish, or (if the Parish is divided into Polling Districts) in any Polling District, is not more than five hundred, only one polling station shall be provided for the Parish or Polling District ; and so on for each additional five hundred parochial electors, or for any less number of electors over and above the last five hundred.

Notice of the Poll.

25.—(1.) If a poll has to be taken, the Returning Officer shall, five clear days at least before the day fixed for the same, give public notice thereof. The notice shall specify—

- (a.) the day and hours fixed for the poll ;
- (b.) the number of Parish Councillors to be elected ;
- (c.) the names, place of abode, and description of each candidate whose name was put to the Parish Meeting, and who has not since withdrawn his candidature ;
- (d.) the names of the proposer and seconder who signed the nomination paper of each candidate ;
- (e.) a description of the polling districts, if any ; and
- (f.) the situation and allotment of the polling places, and the description of the persons entitled to vote thereat, and at the several polling stations.

(2.) The notice shall be in the Form No. 4 in the First Schedule to this Order, or in a form to the like effect.

(3.) If polls are to be taken in the Parish as to election of both Parish Councillors and Rural District Councillors, the Returning Officer may, if he thinks fit, give one notice only for both polls, and such notice shall be in the Form No. 5 in the First Schedule to this Order, or in a form to the like effect.

Presiding Officers.

26. The Returning Officer, or some person appointed by him for the purpose, shall preside at each Polling Station. The person presiding at any Polling Station shall be called the Presiding Officer.

Provided as follows :—

- (a.) At any Polling Station the same person shall act as Presiding Officer for the election of Parish Councillors and of any Rural District Councillors to be elected at the same date in the Parish.
- (b.) In making appointments under this Rule, the Returning Officer shall, as far as practicable, secure the services of suitable persons resident in the Parish, so as to diminish expense.

Counting the Votes.

30.—(1.) The Returning Officer, when he does not act as a Presiding Officer, shall appoint the Presiding Officer or some one of the Presiding Officers to act as Deputy Returning Officer as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and

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—

the declaration of the number of votes given for each candidate and of the election of the candidates to whom the largest number of votes have been given. The person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the Returning Officer in relation to the decision of any question as to any ballot paper and otherwise as to the ballot papers.

(2.) The same person shall act as Deputy Returning Officer in respect of the election both of Parish Councillors and of any Rural District Councillors to be elected at the same date for the Parish.

(3.) The votes shall be counted in the Parish or in some place near thereto as soon as practicable after the close of the poll.

Application and Adaptation of Ballot Act, 1872.

34. The Provisions of the Ballot Act, 1872, which, with adaptations and alterations, are set out in the Second Schedule to this Order, and only such provisions of that Act, shall, subject to such adaptations and alterations, apply to the election in like manner as in the case of a municipal election.

Provided as follows :—

- (1.) Such application shall be subject to the provisions of this Order.
- (2.) If an election of Parish Councillors and of any Rural District Councillors is held in the Parish at the same date, one ballot box may, if the Returning Officer thinks fit, be used for the two elections ; but, if separate ballot boxes are used for the two elections respectively, no vote for Parish Councillors shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for any Rural District Councillor.
- (3.) The ballot papers used at the election of Parish Councillors for the Parish shall be of a different colour from that of any ballot papers used in the election of any Rural District Councillors held in the Parish at the same date.

Expenses.

38.—(2.) If a poll for the election of Parish Councillors and of Rural District Councillors is taken at the same date in the Parish, one half of any expenses which may be payable in respect of the two polls jointly, including the remuneration of any officers employed in the conduct thereof, shall be deemed to have been incurred in relation to the poll for the election of Parish Councillors, and shall be defrayed accordingly.

If Parish in more than one County.

39. If a Parish is situate in more than one administrative county, it shall for the purposes of this Order be deemed to be wholly situate in the county which, according to the Census of One thousand eight hundred and ninety-one, contains the larger part of its population.

Wards.

40.—(1.) If the Parish is divided into Wards for the election of Parish Councillors, the foregoing rules shall apply to each of such Wards as if it were a Parish.

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Knight & Co., Ltd., &c., &c.,

FOR CONDUCTING

RURAL DISTRICT COUNCIL ELECTIONS,

IN CONFORMITY WITH THE

RULES OF THE LOCAL GOVERNMENT BOARD

AND

THE BALLOT ACT.

With additional USEFUL FORMS, settled or revised by Mr. FRANK ROWLEY PARKER.

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1	Notice of Election (Form 1 in Schedule)	per 50	4 0
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3 ^{1/2}	(Ward or United Parishes)	"	4 0
3 ^{1/2}	(Followers)	"	4 0
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4 ^{1/2}	(Ward or United Parishes)	"	4 0
6	Notice of Poll, Rural District Councillors only (Form 4 in Schedule) (Parish)	"	4 0
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